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VENEZUELA-BRITISH GUIANA BOUNDARY ARBITRATION

THE COUNTER-CASE

OF THE

UNITED STATES OF VENEZUELA

BEFORE THE

TRIBUNAL OF ARBITRATION

To Convene at Paris

UNDER THE

Provisions of the Treaty between the United States of Venezuela and Her Britannic Majesty Signed at Washington February 2, 1897

VOLUME 1

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COUNTER-CASE OF THE UNITED STATES OF VENEZUELA.

I.—INTRODUCTION.

Submission of Counter-Case.

Pursuant to Article VII of the Treaty of Arbitration signed at Washington on the 2nd day of February, 1897, between the United States of Venezuela and Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, the Agent of Venezuela, before the Arbitral Tribunal, has the honor to submit the present Counter-Case, accompanied by an Appendix, in two volumes, and an Atlas. Said Appendix, pursuant to the provisions of the Treaty of Arbitration, contains additional documents, correspondence and evidence in reply to the Case, documents, correspondence and evidence heretofore presented by Great Britain.

At later stages of this proceeding, and in compliance with the provisions of Article VIII of the Treaty of Arbitration, Venezuela will present to the Arbitral Tribunal printed and oral arguments in support of its contentions.

Purpose of Counter-Case.

The object of the present Counter-Case will, in part, be to examine the statements of the British Case with a view to ascertaining the attitude of Great Britain towards the present controversy.

Incidentally some of those statements will be refuted; yet this will not be the main purpose of the examination. The important thing, at present, is to discover where Great Britain stands; what exactly is her theory of the pending controversy. Her formal stand is well known: she claims the disputed area because she alleges

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Purpose of Counter-Case.

it to have been Dutch; Dutch in its occupation, Dutch in its settlement, Dutch in its control. But it is believed that this is far from being a complete statement of her position.

The British Case contains admissions, denials and allegations. Certain of these *admissions*, because they relate to facts of first-rate importance which have heretofore been in controversy, constitute an acknowledgment that further controversy over them is useless. Certain of the *denials* and *allegations* are clearly of the nature of formal pleadings, made without regard to the evidence: they should be accepted as such. Thus viewed they serve to indicate points which Great Britain regards as strategic—to be maintained at all hazards. These admissions, denials and allegations taken together disclose the defenses behind the line. If the British Case has been rested upon these defenses because no others were available, if the position taken is one of constraint and not of choice, as indeed appears to be the case, then these defenses are full of significance. The primary object of this Counter-Case will be to ascertain that significance.

It has been said that *incidentally* some of the statements of the British Case would be refuted. It should be noted in this connection that, so far as disclosed by the two Cases already submitted, the two Governments are substantially agreed as to many important facts.

Such agreement is, indeed, not always immediately apparent, for the same fact assumes quite different aspects according to the manner of its presentation and the significance accorded it. With regard to other facts real differences exist, and as to these an appeal can lie only to the evidence itself.

The consideration of this evidence and the reasons to

Purpose of Counter-Case

be urged in support of the contentions of each government will be proper subjects for the printed and oral arguments to be submitted later. For the present, as already stated, what is sought is to throw light upon Great Britain's *attitude* rather than to refute the statements in her Case.

In doing this it will be necessary to consider and briefly to comment upon some of the allegations of that Case; to note some of its admissions; to supplement some of its statements; and to correct some assertions which, if unchallenged, might tend to create confusion. So far as possible, however, repetition of what has been set forth in the Case already submitted by Venezuela will be avoided. That Case it is believed contains a sufficient expression of Venezuela's views regarding the questions in controversy; and in view of that fact it is not deemed necessary to make any formal traverse at this time of such allegations in the British Case as may be inconsistent with those views.

The present Counter-Case is submitted for the purposes thus stated.

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II.—GEOGRAPHICAL.

Introduction.

In the Case heretofore submitted by Venezuela the facts out of which the present controversy arose were set forth in a sequence which was believed to be both logical and convenient.

The present statement being in the nature of an answer to the British Case, its purpose will probably be better served if the special facts to which it is proposed to invite the attention of the Arbitral Tribunal be treated more nearly in the order in which they are presented by that Case. That order will, in the main, be followed; yet, as the allegations to be considered are isolated statements taken from the connected story of which they form a part, it will not always be possible to adhere strictly either to the order of those statements or to the narrative itself.

The first section of the opening chapter of the British Case presents little difficulty in this regard, since its purpose is merely to give a geographical description of the territory in dispute. The significance of that description will be better appreciated if it be considered in connection with some of the maps submitted with it.

Division into drainage basins.

Map No. 3 of the British Atlas divides the entire territory into *drainage basins.* One of these, therein designated as the *Barima-Waini Basin,* is bounded on the west by a line drawn about midway between the Amacura and the Barima rivers. This is a distinct recognition of the Amacura as a part of the Orinoco Basin, and constitutes a claim that the Barima and the Waini together form a different and independent basin by themselves.

Division into drainage basins.

Whether or not this claim be sound *theoretically*—and the evidence is certainly against it—it is difficult to see what *practical* value can attach to a boundary which in every other respect must be purely fanciful. That it is fanciful, and for all practical purposes worthless, is testified to by no less an authority than Sir Robert Schomburgk himself, who in his report of June 22, 1841, after establishing to his own satisfaction the "undoubted right of Her Majesty to the Barima, with all the tributary streams which fall into it," thus continues:

Schomburgk's estimony.

"But as in the demarcation of a territory it is of great "importance to fix upon a line of boundary which is permanent "and fixed in nature, and which cannot be destroyed by human "hands, I thought it advisable to claim the eastern or right bank "of the River Amacura, preserving for Her Majesty, or for such of "her subjects as may deem it advantageous for their purposes, "the same rights to the navigation and fisheries of that stream "as the Venezuelans may claim hereafter." [1]

The action of the British Government in subsequently adopting the Schomburgk Line as the boundary in this locality proves that it too is of opinion that this line between the Barima and the Amacura is a purely artificial one, not "permanent and fixed in nature," nor opposing any obstacle to the westward or eastward march of empire.

Orinoco delta

The statement of the British Case itself on this point is entirely in line with this suggestion of Map No. 3. That Case alleges that the Orinoco Delta is bounded on the east by the main stream of the Orinoco and that,

"The low land on the coast to the east of the Orinoco has no "connection with the Orinoco delta, having been formed by the "detritus brought down by the rivers to the eastward of the "Orinoco, and carried westward under the influence of the west-"erly current and the prevailing wind on that coast." [2]

[1] British Case, Appendix, VII, p. 13.
[2] British Case, p. 8, lines 8–14.

Orinoco delta.

The correctness of this statement is certainly challenged; but in any event, Venezuela considers that, whether correct or not, this theory can have no possible influence upon the present controversy. In the Case of Venezuela it was stated that *at present* the region there designated the *Orinoco Delta Region*, is *geographically* and *politically* a unit.[1] If its *present* unity, from a *geographical* and *political* standpoint be admitted, it can be matter of small consequence whether in remote ages, before the advent of man, *geological* forces were at work upon one or upon two drainage basins. The title to a delta region is not derived by following the detritus to its place of deposit, but is rested upon the relation of the delta to the security of the nation that possesses the river. Whatever importance may be attached, under the general principles of International Law, to the division of a country into drainage basins, that importance must rest, not upon theoretical but upon practical considerations; it is not imaginary but real barriers that are to be sought for.

In the case of the Amacura and the Barima, a glance at the map must remove any doubt as to the present relations of those streams to each other. Whatever their geological history, it is a fact that *to-day* they form with the Orinoco, Imataca, Aguire, Arature and Waini, a single network of waterways. So completely interlaced are the water courses in this delta swamp, so flat and featureless is the district, so variable is the run off in its sluggish bayous and sloughs, that, within the limits of tide water, natural drainage basins do not exist. The joining of the Barima and Waini into one, under the designation of the Barima-Waini Basin, and the separation of this from the Orinoco Basin, is purely fanciful.

[1] Venezuelan Case, p. 24.

Cuyuni forest region.

The Geographical part of the introduction to the British Case presents another point worthy of notice.

Map No. 3 of the British Atlas shows the limit of the Cuyuni savannas. According to evidence herewith submitted[1] it appears that the forest region extends some leagues west of the great bend of the Cuyuni river. It appears then that Spanish posts of the last century, notably the Curumo Fort, had penetrated beyond the savannas and into the forest region. These posts had, therefore, crossed this seeming barrier of wood; had pushed well into the tropical jungle, and had crossed the Cuyuni river. On the southern bank of that river, in the very heart of the forest, a military post had been erected; a post from which Spanish control continued to make itself felt throughout the entire Cuyuni-Mazaruni Basin down to the lowest falls of those streams. This Spanish occupation and control of the Cuyuni-Mazaruni forest is significant.

That all geographical matters may be disposed of together, a statement in the next section of the British Case may profitably be anticipated here. The following is the statement referred to:

"In 1628 assistants were engaged 'to lie on the *Wild Coast*' —a name by which the coast between the Essequibo and the Orinoco had become well known."[2]

Definition of "*Wild Coast.*"

This definition of the phrase "*Wild Coast*" is an inadvertence whose repetition cannot be too earnestly protested against. Not "the coast between the Essequibo and the Orinoco," but the *whole* coast of Guiana, *from the Orinoco to the Amazon*, was what the Dutch called the *Wild Coast*. For this, as every scholar knows, it was their current and accepted name. No case has ever been adduced, no case *can* be adduced, of

[1] Affidavit of E. J. Monge, *in* Venezuelan Counter-Case, vol. 3. British Case, p. 25, lines 29–32.

its use in any narrower sense. It is important that this be from the outset clearly understood.

Definition of "*Wild Coast.*"

Before passing to the next chapter it will be well to inquire whether the present one throws any light upon Great Britain's attitude towards the controversy. What, for instance, is the significance of the separation claimed to exist between the *Barima-Waini Basin* on the one hand, and the *Orinoco Basin* on the other?

Great Britain's attitude regarding coast region.

If Venezuela be correct in maintaining that no such separation exists; that the so-called "Barima-Waini Basin" is wholly fanciful; that the separation itself is based upon a misconception as to the *present* relations of the coast streams which flow into the Orinoco and which mingle their waters together; that a division between the Barima and the Waini would be quite as logical as a division between the Barima and the Amacura; that in fact the division relied upon by the British case is wholly without practical value; then the fact that such division is alleged, and that, in part, the British Case rests upon it, is full of meaning.

It discloses a recognition on the part of Great Britain of the necessity for a barrier between the Orinoco, on the one hand, and the Barima and Waini, on the other. It shows a realization of the fact that but for such barrier the constructive occupation of the latter rivers by the Spaniards of Santo Thomé cannot be excluded. It brings to light a well grounded fear that if the Barima and the Waini shall be held to be *one* with the Orinoco, the two smaller streams must perforce go with the larger. The present unity of these rivers is not ventured to be questioned; and, the fact that an appeal should have to be made to ages gone by, and to conditions which if they ever existed have long since passed away, is itself the best possible proof that no such separation exists to-day.

Great Britain's attitude regarding coast region.

The attempt to prove the existence of two separate basins may fail, but the fact that the effort has been made throws light upon Great Britain's attitude. It shows an appreciation of the paramount importance of divorcing the Barima from the Orinoco, if the British hold upon the Barima is to continue. Dutch settlement in that region cannot be made the basis of British title for no Dutch settlement ever existed there. The physical conditions of to-day cannot be invoked to cut the region loose from the Orinoco and to link it to the Essequibo, for those physical conditions bind the region to the Orinoco so closely that, if in times gone by, they were ever two, all traces of such duality have vanished. A theory of geologic origin is alone left. It is not strange that this theory should be seized and built upon; but the house thereon erected is a house which cannot withstand the winds and storms of controversy, for it is a house built upon the sand.

III.—HISTORICAL RÉSUMÉ.

Introduction

The Geographical part of the introduction to the British Case is followed by a section entitled *ethnological*, and this again by another section which is entitled *historical*,—which latter constitutes a *résumé* of many of the points in controversy.

This historical *résumé*, as well as the section immediately preceding it, deals also with certain special subjects, which in this Counter-Case will be treated later by themselves. These subjects include Dutch trade, and the nature and effect of Dutch, British and Spanish relations with the Indians.

Other subjects touched upon in this *résumé* are dealt with more at length in the succeeding chapters of the British Case, and their consideration may therefore be postponed until those chapters shall have been reached. A distinct advantage, however, is to be derived from an examination of this introductory British bird's-eye view of the entire question; and to this, therefore, the present chapter will be devoted.

As already stated, it is gratifying to note that upon many important points the two governments are substantially agreed.

British Admissions

It is admitted, for instance, that the Spaniards were the first to discover and the first to settle Guiana; that the earliest Dutch voyage to that coast was full two years *after* the founding of Santo Thomé on the

[1] "The first navigator who sighted the coast of Guiana was a Spaniard." British Case, p. 20, lines 9–10. "In 1591, Antonio de Berrio came down * * * the Orinoco * * . Berrio's actions gave the Spaniards their first footing in Guayana. and led to the settlement of Santo Thomé." Same, p. 20, lines 23–35.

British Admissions.

south bank of the Orinoco;[1] that the Dutch attacks on Santo Thomé and Trinidad in 1629 and 1637 were mere raids which resulted in the pillage and burning of Spanish settlements, but which were ineffectual to dispossess their Spanish occupants;[2] that the title of the Netherlands to the Dutch establishments on the coast of Guiana was confirmed by Spain through the Treaty of Münster;[3] that the attempted Pomeroon colony of 1658 came to an end at the hands of the British in 1666;[4] that the second attempt at a similar colony in 1686 was frustrated by the French;[5] that the Spanish missions in the Cuyuni savannas resulted in the gathering in of the Indians under missionaries, in the subjection of these Indians to Spanish control, and in their instruction and employment in cattle-farming;[6] that the Dutch Cuyuni Post of 1754–1758 was destroyed by the Spaniards;[7] that Dutch smugglers and sojourners —dignified in the British Case by the more imposing but quite unwarranted title of *settlers and residents*— were ejected from the Barima by Spanish officials sent

[1] "The site of the village [Santo Thomé] * * * was visited in 1595 or 1596 by Keymis. * * * In 1598, the Dutchman Cabeliau arrived on the coast of Guiana." British Case, pp. 20–21, lines 38–1, 33–34. After the advent * * * of the Dutch in (at the latest) 1598." British Case, p. 23, lines 29–31.

[2] "In 1629, and again in 1637, they [the Dutch] sacked the settlement of Santo Thomé, and in the latter year they also raided the Island of Trinidad." British Case, pp. 12–13, lines 45–47, 1.

[3] "In 1648 * * * the States-General obtained from Spain, by a special Treaty at Münster, etc., * * * and were confirmed in the possession of all the * * * country which they then held." British Case, p. 13, lines 14–20.

[4] "In 1658 * * * the Pomeroon was settled * * * the whole Colony, including Pomeroon and Essequibo, was occupied for a short time in 1666 by British forces." British Case, p. 13, lines 25–34.

[5] "This new [Pomeroon] settlement was in 1689 destroyed by the French." British Case, p. 13, lines 40–41.

[6] "In these Missions [of the Catalonian Capuchins] the Indians were gathered together and employed in cattle farming." British Case, p. 14, lines 41–43.

[7] "In 1758 the Spanish authorities * * * sent a secret expedition, which surprised and destroyed the [Dutch] Post [on the Cuyuni]. British Case, pp. 14–15, lines 49–50, 1–2.

there to clear them out;[1] and, finally, that the sole title of Great Britain to British Guiana is the title conveyed to her by the Dutch in 1814.[2] British Admissions.

These facts are now undisputed, but beyond these the British Case contains other admissions, some of them too important to pass unnoticed.

For instance, it is stated that

"After the conclusion of the Treaty of Münster *great exten-* Dutch *Extensions* after 1648.
"*sions* of their possessions in Guiana were made by the Dutch;"[3]

and again that,

"In addition to these indications of actual possession, the "Dutch throughout the period of their occupation were con-"tinually increasing their political control."[4]

The importance and significance of these admissions it would be difficult to overestimate: By the Treaty of Münster the Dutch received from Spain, in 1648, a quit-claim to what they *then* possessed,[5] not to any subsequent *extension* of those possessions at Spanish expense. By that Treaty also the Dutch agreed to respect Spanish possessions, and to acquire no more Spanish territory.[6]

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[1] "The Spaniards from time to time conducted raiding expeditions down the coast. * * * They raided the property of Dutchmen settled in Barima, and Spanish vessels several times arrested Dutch fishing vessels in the Orinoco on charges of smuggling." British Case, p. 16, lines 38–44.

[2] "It [the Dutch Colony of Essequibo] was formally ceded to them [the British] after the general pacification in 1814. They have remained in possession of it ever since." British Case, p. 17, lines 15–17.

[3] British Case, p. 13, lines 23–25.

[4] British Case, p. 15, lines 37–40.

[5] "Each one, that is to say, the said Lords, the King and States respectively, shall remain in possession of and enjoy such lordships * * * and countries * * * which the said Lords, the King and States respectively hold and possess." Treaty of Münster, Art. V *in* Venezuelan Case, vol. 3, p. 7. "Each [*i. e.* Spain and Holland] shall remain effectively in the possession and enjoyment of the countries, towns, forts, lands and dominions which he holds and possesses *at present.*" Same, Art. iii *in* Venezuelan Case, vol. 3, p. 6.

[6] "Comprising also the spots and places which the said Lords, the States hereafter *without infraction of the present treaty* shall come to conquer and possess." Treaty of Münster, Art. V. *in* Venezuelan Case, vol. 3, p. 7.

Dutch *Extension* after 1648.

At that date the title to the region between the Essequibo and the Orinoco was and continued to be vested in Spain, and hence "*great extensions of their* (the Dutch) *possessions in Guiana*," if these extensions were west of the Essequibo—and no other region is here in question—prove a breach of treaty obligations by the Dutch, and the use of the phrase constitutes an admission, that in 1648 the Dutch did not possess in that region all they subsequently claimed.

British Denials

This *historical* section of the introduction to the British Case is significant almost as much in what it denies as in what it admits. As was suggested in the Introduction to this Counter-Case, denials which bear the imprint of formal pleadings, made without regard to the evidence, should be accepted as such, and should be regarded as indications of strategic points. For instance, it is asserted in the British Case that Santo Thomé "was until 1723 the only possession of the Spaniards in Guiana."[1] This can hardly be intended literally, for however the presence of the Spaniards in the Essequibo prior to the Dutch advent may be regarded, that presence was certainly sufficient to entitle the Essequibo to be classed as a Spanish "possession" in those days.

Spanish Settlement in Essequibo.

Some new evidence of this Spanish occupation was, indeed, published for the first time by Venezuela in the Appendix to her Case,[2] but the British Government has, nevertheless, long been cognizant of the testimony, on this point, of Keymis, of Thomas Masham,[3] of Unton Fisher[4]

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[1] British Case, p. 12, lines 20–21.

[2] Venezuelan Case, vol. 2, pp. 263-264.

[3] *See* Hakluyt, edition of 1811, vol. iv; also United States Commission Report, vol. i, p. 47.

[4] U. S. Com. Report, vol. i, p. 48, foot-note.

and of Sir Walter Raleigh; and to entirely ignore their testimony amounts to an admission that it cannot be successfully controverted. Spanish Settlement in Essequibo.

Not only so; over and above this, and more important still, this purely formal denial proves that Great Britain recognizes the importance of the early Spanish settlement in the Essequibo, and that she hesitates to meet the issue thus raised. Deny it specifically, she does not and cannot. To admit it would be to admit that Spain, before the arrival of the Dutch in the Essequibo, had by occupation and settlement completed her title to that very river; and that if possession of Kykoveral by a mere trespasser can be made the basis of a claim to the entire drainage basins of the Essequibo, Cuyuni and Mazaruni, with vastly more reason might the same claim be urged in favor of the nation that first discovered the country and that first built the fort upon which the trespasser in question subsequently squatted.

It was also stated in the Introduction to this Counter-Case that certain purely formal allegations which, like certain denials, partake of the nature of mere formal pleadings, constitute admissions that the points thus sought to be established are essential to British success and must be alleged at all hazards. The *résumé* under examination contains certain allegations which may be said to come under this category. They can therefore serve but to emphasize the voids which they are intended to fill, and to disclose a just appreciation by Great Britain of the necessity of filling them. British Allegations.

For example, it is alleged, that "Between 1621 and 1648 * * * the Dutch commanded the whole of the coast of Guiana and as far as Trinidad."[1] Dutch Command of Coast.

[1]British Case, p. 12, lines 37-39.

Dutch Command of Coast.

A sufficient refutation of this allegation will be found in the following facts:

Before 1632 the Dutch founded colonies on the coast of Guiana, but by or before that year[1] these had all been abandoned. Only the trading post in the Essequibo, which the West India Company (the Nineteen) then voted to abandon, was kept up at its own instance by the Zeeland Chamber;[2] and Berbice was still maintained by its patroons. At the same time, according to a British contemporary witness, both French and English were settling on the coast at "Wiapoco," "Cayan," "Meriwina," "Suramaco," "Suranam," "Curanteen," and "Comonina," all these being places on the coast and east of the Essequibo.[3] No claim to the whole of this coast was ever made by the Dutch[4]. There is indeed a statement in the British Case which would seem to imply that the Dutch not only claimed the whole coast, but that their settlements reached to the very Orinoco. The assertion is not made directly, but instead there is quoted the statement that *in 1613 there were three or four settlements between the Orinoco and the Amazon.*[5] This may or may not have been so; but in any event it is well known that the westernmost of those "settlements" was on the Corentine, 300 miles east of the Orinoco and 120 miles east of the Essequibo. This westernmost Dutch settlement was by the Spanish Governor of Trinidad, Don Juan Tostado, deemed within his *jurisdiction*, and by reason "of the mischief" done by the Corentine Dutch, the settlement was destroyed by the Spaniards from Trinidad.

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[1]Cayenne was abandoned in 1631. Venezuelan Counter-Case, vol. 2, p. 71.

[2]U. S. Com. Report, vol. ii, p. 65 and foot note.

[3]British Case, Appendix I, pp. 169–170.

[4]Venezuelan Counter-Case, vol. 2, p. 190.

[5]British Case, p. 22, lines 19-22.

Dutch Command of Coast.

It will thus be seen that the allegation that "between 1621 and 1648 * * * the Dutch commanded the whole of the coast of Guiana and as far as Trinidad," must be regarded as a mere formal pleading, made because he who urges it sees the necessity of showing Dutch occupation of the coast from the Essequibo to the mouth of the Barima. If this be not shown, Great Britain has no other foundation for her claim to the Barima and Waini: even the theory of a separate drainage basin for those rivers could do no more than separate them from the Orinoco and keep out the constructive occupation of the Orinoco Spanish: it could not avail to join the Barima and Waini to the Essequibo, nor to give them a Dutch character by constructively extending Dutch occupation from the east. Hence the necessity of proving *actual* possession of the whole coast by the Dutch. Not only so; even *actual* possession, in order to be effective, must either antedate the Treaty of Münster (1648), or else be shown to have had all those qualities requisite for the creation of a prescriptive title. Therefore it is that, choosing the first horn of this dilemma, the allegation is made specifically to refer to the years "between 1621 and 1648."

Dutch in Amacura.

Again, it is alleged, that in 1637 and 1638, the Dutch were "settled" in the River Amacura.[1] Possibly a few of the Dutchmen who raided Santo Thomé in 1637 may have sojourned for a time in the Amacura; but that any importance should be attached to such an incident would seem to indicate that Dutchmen along that coast must have been very scarce in those days.

The significance of the allegation consists rather in the evidence which it furnishes of the conscious need

[1] British Case, p. 13, lines 3–5, and p. 25, line 45.

Dutch in Amacura.

of proving some Dutch control of this coast region, even though that control be but a shadow cast by the temporary presence of Dutchmen wandering along its streams. It is also significant that this shadow, if indeed it was even that, appears to have been cast not on the Barima, but on the Amacura, a stream which Great Britain admits to have belonged to Spain then, and to belong to Venezuela now. Great Britain's extreme claim reaches but to the eastern bank of that river.

The lines of the British Case which follow the above allegation, to wit: that "during the whole of this period they (the Dutch) were masters of the sea in the neighbourhood of the mouths of the Orinoco[1]" are quite without foundation.

Dutch Presence West of Moruca.

Passing on to the period after 1648, it will be seen that this need of proving Dutch presence or Dutch control west of the Moruca has been constantly kept in mind by the compilers of the British Case.

Dutch Shelter of 1683.

A single allegation will be cited. The proposition of Governor Beekman in 1683 for a "small shelter" at Barima, for the use of the Pomeroon postholder upon his proposed occasional visits to that river for purposes of trade, is once more made the basis of an allegation that "servants of the Company were *residing* in the Barima and in the Pomeroon in the year 1683"; and this, notwithstanding the fact that the proposition itself evoked a missive of the severest condemnation from the Company and that no Dutch representative ever *resided* at Barima.

Relations of Barima to Orinoco and Essequibo.

It has been seen that one of the things which the British Case strives to establish is that *geographically* the Barima and Waini are independent of the Orinoco. This effort is supplemented by another intended to

[1]British Case, p. 13, lines 6–8.

Relations of Barima to Orinoco and Essequibo.

prove that the same two rivers (the Barima and Waini) were in fact under the political control of the Essequibo Dutch. The following are some of these allegations:

"The Essequibo Government thenceforward continued to con-
"trol the district of the Pomeroon, and of the rivers and creeks
"connected with it, *including the Barima*,"[1]

as though the Barima were one of these "rivers and creeks" and a mere appendage of the Pomeroon.

Again,

"It (the Post) was situated sometimes on the River Pomeroon
"itself and sometimes on one or other of the neighbouring creeks,
"Wakepo and Moruka. It commanded the means of access to
"the Waini and Barima districts, which were commercially and
"politically controlled by the Postholder."[2]

And,

"By means of the Post at Moruka, the entry of traders into the
"Barima and Waini districts was controlled,[3] etc."

These statements might have some value in the way of showing a dependence of the Barima and Waini upon the Pomeroon and Moruca, if the inference intended to be drawn from them were warranted, namely, that the Pomeroon commanded the *only* means of access to the Barima-Waini region. Of course this is not so, because that region may be reached with perfect ease from any point in the Orinoco Delta. But, while these two passages fail to accomplish the purpose for which they were apparently intended, they do accomplish another and a very useful purpose, which is to prove that the region lying east of the Moruca is so completely separated by natural barriers from the Barima-Waini region on the west, that a single post near the entrance to the narrow artificial channel which, during the rainy season,

[1] British Case, p. 13, lines 44–47.
[2] British Case, p. 14, lines 5–10.
[3] British Case, pp. 15–16, lines 48–49, 1.

Relations of Barima to Orinoco and Essequibo.

renders possible a difficult communication between them, is enough to completely control the travel between the two.

These attempts to find some basis, be it geological or historical, for the division of what is essentially a single region into two basins, and for the union of what are essentially distinct basins into a single region, have a significance of still another kind. They contain an implied admission that no historical basis of actual and effective Dutch occupation or settlement is to be found to support a Dutch claim to the Barima-Waini Region. If Dutch title to the Barima must rest upon the ease with which the Dutch postholder on the Pomeroon or the Moruca could have gone to the Barima, or upon the control which he exercised in that river, it means that that is the only kind of control which can be alleged, and that there was neither occupancy nor settlement. The facts of control have been sufficiently set forth in the Case submitted by Venezuela. They need no repetition here. It is sufficient at this time merely to note that Great Britain presents no other grounds for Dutch title to that region, except perhaps that afforded by the occasional presence there of some Dutch smugglers or sojourners, whose existence is known to posterity only by the fact that they were expelled therefrom by Spanish officials.

The above examination discloses the attitude of the British Government towards the Barima-Waini Region. Passing from this to the Essequibo proper, the points which, for the moment, merit attention relate to the period prior to 1648.

Dutch in Essequibo.

It is alleged that there were Dutch settlers in the Essequibo in 1621;[1] that the Dutch West India Com-

[1] British Case, p. 12, line 32.

pany "at once (1621) established there an organized colony"[1]; and finally, that the "Colonial Government" of the company was situated at Fort Kykoveral. Dutch in Essequibo.

These statements might all be true without in any way detracting from the strength of Venezuela's claims. Spain having first settled the Essequibo, and having been in occupation of it until at least as late as 1617, it can make little difference whether Dutchmen who went there later arrived in 1621, or at any other date after the departure of the Spanish and before 1648. Whatever the date of their first appearance, it is well known that in 1632 the Company voted to abandon the post which was then there, and that that post was with difficulty kept alive until 1648. It may be added that the presence of Dutchmen in the Essequibo in 1621 is most unlikely; and that the statement itself is unsupported by contemporary evidence.

The second allegation, as to the character of this Dutch occupation, is an error. To speak of the first Dutchmen who went there as *settlers*, or to say that as early as 1621 the Dutch West India Company "established there an *organized colony*," is to make statements which are inconsistent with well known facts. From the first, the establishment was nothing more than a trading post, and even at the time of the Treaty of Münster it was altogether insignificant.

Reference to Fort Kykoveral as a site of a "*Colonial Government*," is incorrect, if it be the intention to include under that term any other part of Guiana than the Island of Kykoveral itself; even so, it is certainly a high-sounding title to apply to the few traders who lived on that island.

As the various allegations of the British Case in connection with the Barima-Waini region have made clear Dutch in the Interior.

[1] British Case, p. 12, line 33.

Dutch in the Interior.

Great Britain's attitude towards it, so do similar allegations with reference to the interior of the country disclose her position there.

One of the first allegations in this connection amounts to a confession that in 1648 Dutch trade with the interior had not yet begun. The following is the allegation referred to:

> "Besides their enterprise upon the coast, the Dutch had also "*before the end of the seventeenth century* penetrated far into "the interior. Negro traders were employed by the Company to "travel among the Indians and obtain by barter the products "of the country. *In 1683 and onwards* these traders are men- "tioned as periodically visiting the Pariacot Savannah, and as "using the name of the Dutch Government to put an end to native "wars on the Cuyuni, which hindered commerce[1] "

Whatever the value of this kind of occupation, it is fair to conclude that it did not begin until about 1683. This means that at the date of the Treaty of Münster the interior was not visited by the Dutch, and that it was outside of Dutch control.

This allegation, with others which follow, is also useful because it shows the *kind* of occupation upon which the British Case relies to establish British rights to the interior. It was an occupation which consisted exclusively of trade and of relations with Indians. Both of these subjects will be considered later. For the present it is enough to note that if we except the temporary trading posts on the Cuyuni, from which the Spaniards ousted the Dutch, or which the Dutch abandoned for fear of the Spaniards, the whole British claim to the interior is made to rest, first upon the theoretical consideration of drainage basins, and second upon alleged trade and Indian alliances. Excepting for certain so-called "*Dutch residences*" shown in various

[1] British Case, p. 14, lines 11–21.

parts of this region, in the first four maps of the British Atlas, for all of which evidence is wanting, there is no pretense that any Dutch *settlements* ever existed above the lowest falls of the Cuyuni and Mazaruni. It is well known that the only Dutchmen in those parts were wandering traders and smugglers, or else slave catchers disguised at times as Indians for the purpose of escaping capture at the hands of the Spaniards. This general reliance of Great Britain upon trade and Indian relations is illustrated by the following extract from the historical résumé of her Case:

Dutch in the Interior.

"Beyond the lands actually planted by agriculturists, the Dutch "were, by their use and enjoyment of its resources, and by their "exercise of political control, in possession of all the territory "now claimed by Great Britain.

"The Dutch Posts were maintained on the Essequibo and "Cuyuni, and in the district of the coast rivers, at Pomeroon or "Moruka. The timber in the forests of Massaruni, Cuyuni, "and Waini was granted out by the Government for felling, "and mines were opened and worked in the range called the "Blauwenberg, to the north of the Cuyuni.

"In addition to these indications of actual possession, the "Dutch throughout the period of their occupation were con-"tinually increasing their political control.

"The Indians of the outlying districts were in alliance with "them throughout the whole region from the Essequibo to "Barima, and acted under them on many occasions against re-"volting or absconding negroes. Their Chiefs received badges "and insignia as tokens that they were recognized by the Gov-"ernment."[1]

These allegations are denied by Venezuela. She asserts that the Dutch never exercised control, political or otherwise, over the region in question. Dutch posts were not *maintained* on the Cuyuni, but on the contrary such as were attempted invariably came to an end because the Spanish would not tolerate them there. Such

[1]British Case, page 15, lines 23–47.

Dutch in the Interior.

limited timber cutting as was indulged in was surreptitious. The mining operations of Hildebrandt, already referred to in the Venezuelan Case, amounted to nothing and were abandoned almost as soon as begun; and Dutch relations with the Indians, as will be shown later, were never of such a character as to afford a foundation for a claim of Dutch sovereignty to the territory in dispute.

But, as before stated, it is not the purpose of this Counter-Case to traverse allegations of the British Case. These allegations are considered with a view to defining Great Britain's *attitude* toward the questions involved rather than to affirming or denying the truth of the allegations themselves. Viewed in this light, the passage above quoted is useful because it shows that there is no claim to *settlements* in the interior, and that Dutch title to that interior is acknowledged to depend upon the legal effect of these various acts alleged in the British Case itself to have taken place "beyond the lands actually planted by agriculturists."

The necessity of proving some tangible and actual occupation of land above the falls was doubtless appreciated by the compilers of the British Case; at least that is an inference which may fairly be drawn from the importance attributed by them to the Dutch posts which were vainly attempted to be maintained on the Cuyuni river. It is the only evidence of actual Dutch occupation to which any appeal was possible, and it is not surprising, therefore, that the most should have been made of it.

The facts as to all these posts have been fully recited in the Venezuelan Case; so also have the nature and effect of the Dutch remonstrances which were in consequence presented to the Spanish Court. Their

Dutch in the Interior.

further consideration may, therefore, be deferred until a later stage of this controversy.

Spanish control of the Interior.

Having considered the allegations of the British Case as to Dutch control of the interior, it will be profitable to consider how Spanish control of the same region is regarded by Great Britain. Some of the statements in this direction, if considered by themselves, are calculated to discourage further inquiry. For example:

"The Spaniards never exercised dominion on the Cuyuni; "they never utilized the resources nor controlled the inhabitants "of its valley in any way. Nor did they exercise any dominion "or control in the Massaruni or Essequibo."[1]

And again:

"They [the Spanish Catalonian Capuchin Missions] never "reached the forest region or the valley of the Cuyuni."[2]

These assertions, however, can hardly be intended literally, as the British Case elsewhere admits that the Dutch Cuyuni post of 1754 to 1758 was destroyed by the Spaniards, and that the Spanish Missions did eventually reach and cover the Pariacot Savannah.

To be sure the first admission is hedged about with many allegations as to the secret character of the Spanish expedition, as to its rapid retreat, the consequent remonstrance to Spain, and the *re-establishment* of "a post on the river."[3] But it is not stated, that the only secrecy about the expedition was for the purpose of preventing the escape of the Dutch postholder; that the destruction of the post was effected by the Spaniards under a claim of right; that its Dutch occupants were taken prisoners; that a Dutch demand for their release was refused; that a Dutch remonstrance against the destruction of the post was treated with contempt by the Spanish Court; that the Dutch never re-

[1] British Case, page 15, lines 7–11.
[2] British Case, page 14, lines 39–41.
[3] British Case, pages 14, 15, lines 48–51, 1–6.

Spanish control of the Interior.

established *that* post; that their remonstrances on the subject were finally abandoned; that the Dutch thus acquiesced in their ejectment from the Cuyuni; and that posts subsequently attempted lower down the river were successively abandoned because of the Spaniards. Neither is any note taken of the following testimony of the Dutch Governor to the completeness of Spanish dominion on the Cuyuni:

> "In my previous despatches I had the honour from time to time "to inform your Honours of the secret doings of the Spaniards "and especially in my second letter by the 'Vrouw Anna' and "in my letter by the 'Geertruida Christiana,' did right cir- "cumstantially concerning the fatal and, for the Colony, most "highly-perilous news of the River Cayuni. My opinion has "always been that they would gradually acquire a foothold in "Cayuni, and try to obtain the mastery of the river, *as they now "practically have done at the end of the past year.*[1]"

Extent of Spanish missions.

The other assertion, above quoted, to the effect that the Spanish missions never reached the valley of the Cuyuni, is inconsistent with the later admission that "In the course of the next seventy years [after 1724] these Missions were extended on to the Pariacot Savannah.[2]" As a matter of fact they were there within ten years. This assertion is furthermore inconsistent with the following statement of the Case itself, unless indeed the term *Cuyuni valley* is to be taken as restricted to the immediate banks of the stream itself:

> "Recognizing, however, the fact of the establishment of Spanish "Missions during the eighteenth century on territory south of "the Orinoco, in the neighbourhood of the River Yuruari, which "Missions continued to exist up to the year 1817, the Govern- "ment of Great Britain has never actively sought to press its "claim to that portion of the district north-west of the Cuyuni, in "which missions were actually situated.[3]"

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[1] Venezuelan Case, Vol. 2, p. 183.
[2] British Case, p. 14, lines 37–39.
[3] British Case, p. 6, lines 24–32.

Extent of Spanish Missions.

But even as regards the Cuyuni river itself the assertion regarding the limits of Spanish occupation in the Cuyuni-Mazaruni basin cannot be accepted as true. The Curumo Fort, erected and maintained on the south bank of the Cuyuni opposite the mouth of the Curumo, in the midst of the forest region, was certainly an occupation of the *Cuyuni valley;* and the evidence discovered by Professor Burr regarding the existence of Spanish Missions *on the Wenamu, in Queribura and at Mawakken*[1] remains uncontradicted save by unsupported denials in the British Case.

Spanish control of Cuyuni forests.

The allegations thus made with a view to belittling the extended Spanish occupation and control of the Cuyuni valley, are supplemented by other allegations intended to minimize the control exerted by the Spanish missionaries in the Cuyuni forests. There is, for example, the following statement:

> "Over the forest country and the Indians therein the mission-
> "aries exercised no control whatever. On the contrary, the
> "Missions were frequently raided and destroyed by the Carib
> "Indians of that region."[2]

This is certainly a mistaken view of the matter. It was from these very forests that the mission Indians were gathered; and from 1748 on, the missions themselves were almost exclusively of Caribs or Accoways taken from these Cuyuni forests. These undoubtedly revolted at times, and tried to throw off the Spanish yoke; but, although some individuals escaped, yet over the Indians as a whole the strong hand of Spanish control continued to make itself felt throughout the entire region, and throughout the entire period of Spanish domination.

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[1] Venezuelan Counter-Case, vol. 2, p. 202.

[2] British Case, p. 14, lines 43–47.

Spanish occupation and control of Interior, and of the Orinoco.

The British denial of a Spanish occupation of the Cuyuni valley and of a Spanish control of the Cuyuni and Mazaruni rivers cannot shake the evidence in favor of both or do away with the facts themselves. Equally futile are the allegations as to the weakness of Santo Thomé or as to Spanish abandonment of the Orinoco itself. The Santo Thomé of the seventeenth and eighteenth centuries can hardly be compared with a fortified city of the nineteenth century. The needs and possibilities of those days were not the needs or possibilities of these. Moreover, Spanish commanders found it to their interest at times to magnify their present needs so as to obtain desired supplies, and at other times to draw pictures favorable to themselves by placing their own achievements in contrast with the poverty of the past.

But, whatever may have been the numerical strength of the Spanish garrisons or the size of the Spanish town, one thing is certain, both were always equal to the emergency. Other nations were kept out of the Orinoco and out of the interior. While the Essequibo Governor was writing hysterical letters to his company pleading for help from the extinction which at times threatened him; while a few plantations on the banks of the Essequibo marked the extent of his domains; while in his helplessness he was turning to the savages of the forests for protection, Spain was building fortresses on the Orinoco and the Cuyuni; her missions and missionaries were penetrating into the interior; her vessels were patrolling the coasts, and everywhere she was demonstrating her ability to hold the territories which she had been the first to discover and to occupy.

Spanish claims

It is alleged by Great Britain that Governor Marmion at one time proposed to abandon the Orinoco for sixty

miles from its main mouth[1] and to treat the former site of Santo Thomé as the frontier of the Spanish possessions. Such an allegation is wholly without foundation. Neither Marmion nor any other Spanish Governor ever made any such proposition; and Spain herself from first to last proclaimed her sole right to the whole of Guiana south of the narrow fringe of Dutch, French and English settlements along the coast. The Orinoco and the entire coast region as far east as the Essequibo she always regarded as her own. Spanish claims.

[1]British Case, page 16.

IV.—HISTORICAL SYNOPSIS.

Introduction.

The *Historical Synopsis* which constitutes Chapter II of the British Case, and which follows the *historical résumé* just considered, contains much in the way of detail which is not covered by the résumé; its allegations are, however, in general along the same lines. At the present time these details will be considered only so far as they happen to fall within the general scope of this examination. No attempt will be made to deal with them exhaustively nor singly, nor to traverse the allegations which they may involve. The purpose of this chapter is to continue the general examination already begun; and the further British admissions, denials and allegations, to be examined, will be considered only so far as they serve to throw additional light upon Great Britain's attitude.

British admissions.

As in the case of the historical résumé, the *Historical Synopsis* contains many statements, which, either by direct admission or by the character of their denial, prove that the two Governments are really in accord as to the controlling facts of this controversy.

Discovery of Guiana by Spain.

1. The discovery and first settlement of Guiana by Spain is frankly admitted; and the value of that admission is in no way lessened by allegations as to *subsequent* Dutch voyages.

Spanish occupation of the Essequibo.

2. Spanish occupation of and settlement in the Essequibo is not in terms admitted; but, on the other hand, the earliest date at which the presence of Dutch traders in that river is ventured to be alleged is one *subsequent* to the time when Spanish title by *discovery* had already ripened into Spanish title by *occupation*.

Basis for Dutch claims west of Moruca.

3. Dutch claims to the coast west of the Moruca are acknowledged to rest, not upon any formal Dutch *occupation* of the region, but solely upon Dutch trade, Dutch fishing, Dutch relations with Indians, and the occasional presence of Dutch smugglers or sojourners. Nothing like a formal occupation by an authorized agent of the West India Company, or of any other Dutch authority, is even suggested.

Spanish control of this region.

4. Spanish control of this same region is indeed denied; but this general denial is accompanied by so many admissions as to specific acts of control that the effect of the denial itself is completely nullified.

British occupation of coast.

5. British occupation of the entire coast, from the date of the earliest British possession of the Dutch colony, is formally alleged; but except for a survey claimed to have been made along the coast in 1781,[1] and for an alleged apportionment of lands in 1797, neither of which, even if true, could be strictly regarded as an act of occupation,[2] no occupation is either alleged or proved until long after the agreement of 1850 with Venezuela.

Limits of Dutch occupation in the interior.

6. That *actual* Dutch occupation of the interior was limited by the lowest falls of the three rivers Essequibo, Cuyuni and Mazaruni is admitted in effect, though denied in form; the only facts upon which the denial is based being the *mention* of "an annatto store at a Carib village above in Massaruni" (*i. e., up* the Mazaruni) in 1686,[3] *reference* to a "dye store in the Cuyuni"[3] in 1699, the alleged removal of the plantation Poelwijk to the head of the lowest Mazaruni falls in 1704,[4] and the so-called Cuyuni posts of 1703, 1754–58, 1766–69 and 1769–72.

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[1] British Case, p. 57, lines 43–47.
[2] British Case, p. 62, lines 15–19.
[3] British Case, p. 31, lines 17–20.
[4] British Case, p. 31, lines 49–50.

When it is remembered that the mere *mention* of each of the so-called *stores* in a single Dutch document is the sum of present knowledge regarding them; that the correctness of the statement about the plantation Poelwijk is open to serious question, and that even if true the removal was only temporary; that the posts referred to were all for purposes of trade; that even the existence of the first of these posts is doubtful; that the second was destroyed by the Spaniards; and that the other two came to an end because of Spanish control of the Cuyuni; the mere enumeration of these facts would seem to be enough to show that, whatever Dutch rights in the interior may have been, Dutch *occupation* was never their basis.

Limits of Dutch occupation in the Interior.

7. On the other hand the presence and control of Spain in this interior Cuyuni-Mazaruni basin is admitted. The admission is, indeed, a grudging one, accompanied by every possible and by many impossible qualifications; but the facts of Spanish occupation and control are nevertheless distinctly recognized. Santo Thomé may be depicted as a collection of cabins inhabited by negroes, mulattoes and half breeds; the missions may be pictured merely as things to be burned or destroyed by Caribs; the very existence of a Spanish fort on the Cuyuni may be ignored or even denied; but these very qualifications and denials are in effect admissions. They are an admission that, however weak the Spaniards of Santo Thomé may have been, they were yet strong enough to maintain Spanish sovereignty over the Orinoco; that, if Caribs revolted against the missionaries and destroyed the missions, it was because Caribs were there to revolt against an authority whose power they had been made to feel; and that, if Spain had no fort in the forests of the Cuyuni, her power there was yet

Spanish occupation and control of Interior.

Spanish occupation and control of Interior.

potent enough to destroy Dutch posts and to fill Dutchmen with a dread of her presence.

These seven general facts or groups of facts are, after all, the controlling ones in this controversy: willingly or unwilling, directly or indirectly, they are all admitted by Great Britain: it is only as to details, and as to the perspective in which the facts themselves should appear, that any real difference exists. The correctness of this assertion is so important that, in order to place it beyond question, it is proposed to consider, in rather more detail, each of the above paragraphs.

Discovery and settlement of Guiana by Spain.

1. The admission as to the discovery and first settlement of Guiana by Spain is made without qualification.[1] It is frankly acknowledged that during the sixteenth century the Orinoco was repeatedly navigated by Spaniards; that, at least below the junction of the Caroni, the interior of the country was explored by Spaniards; that these explorations had as their outcome the founding of Santo Thomé; that this took place prior to the visit of Keymis in 1596.[2] It is also admitted that the first Dutchmen who visited Guiana found the Spanish already settled there; that in 1613 a Dutch settlement on the Corentine was destroyed by the Spaniards;[3] that Spain then claimed the whole of Guiana from the Amazon to the Orinoco; that she then declared her intention to expel all foreign intruders; that various Dutch and British expeditions against Santo Thomé, Trinidad and other Spanish possessions were unable to effect any permanent results, being mere raids into territory confessedly Spanish.[4]

These admissions are made because the facts them-

[1] British Case, p. 20.
[2] British Case, pp. 20-21.
[3] British Case, p. 22, lines 12-17.
[4] British Case, pp. 20-21.

selves are beyond dispute. The effect of these admissions is most important. The title of a discoverer and the title of a second comer stand on very different bases; and these admissions constitute a recognition of the fact that Spain was entitled to all the rights which, in the fifteenth and sixteenth centuries, were by civilized nations accorded to discoverers. They are, at the same time, an acknowledgment that Dutch rights are to be measured by a different and a much stricter standard. Whatever the extent of Dutch occupation, it was at best but the occupation of one coming *after*, an occupation in derogation of a higher title: that higher title may not be admitted to have been complete, but even if assumed to have been incomplete it had vigor enough to be a determining factor in limiting the acquisitions of intruders within the bounds of actual occupation.

Discovery and settlement of Guiana by Spain.

2. The Spanish settlement in the Essequibo at the close of the sixteenth century is again passed over in silence in this *Historical Synopsis* of the British Case, and even its existence seems, though only by implication, to be denied. At least the following words make such an inference possible:

Spanish settlement in the Essequibo.

"At this period the Spaniards were definitely excluded from "the coast to the eastward of the Orinoco. This appears to have "been frequented by them for trading purposes at the close of "the sixteenth century; but after the advent of the English in "1595 and of the Dutch in (at the latest) 1598, and the succeeding years, it became more and more inaccessible to them."[1]

The testimony of Thomas Masham, Unton Fisher, Sir Walter Raleigh, the Duke of Lerma and others who contradict this statement has already been referred to.

The only other references which the British Case makes to this early history of the Essequibo, are first: to the fact that Cabeliau, the first Dutchman to visit

[1] British Case, p. 23, lines 24-32.

Spanish settlement in the Essequibo.

the coast of Guiana, did not go to the Essequibo;[1] and second, the following:

"In 1619 Geronimo de Grados was sent from Santo Thomé to "reduce them (the Indians) to obedience, but, meeting with six "ships of the English and Dutch in the Essequibo, he was taken "prisoner. This was the last of the early Spanish voyages to the "east of the Orinoco. Those who made them do not appear to "have explored the country or done more than visit the mouths "of the rivers." [2]

But this is not a complete nor an accurate statement of even the occurrence here referred to. After entering the Essequibo and compelling the natives to submit, Geronimo de Grados went away, and later, returning, met at the mouth of the Essequibo six foreign ships manned, not by Dutchmen, but by Englishmen.[3] The other allegations of this quotation have been already sufficiently denied.

While passing over in silence the early Spanish settlement on the Essequibo, the British Case offers two statements intended evidently to offset its effects.

Dutch in the Essequibo.

One of these is that the Dutch Captain Groenewegel "despatched a small fleet" to the Essequibo in 1616; and that he then settled there and built Fort Kykoveral. This statement is made upon the authority of the notorious John Scott, whose reliability as a witness has been

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[1] British Case, p. 21, line 43.

[2] British Case, p. 24, lines 1-9.

[3] "Late in 1619 or early in 1620, the Arwaccas having slain six Spaniards, Fernando de Berrio sent out Captain Geronimo de Grados from Santo Thomé to chastise them. He went into the Barima [? Pomeroon] and compelled the natives to submit and to give him provisions; then into the Essequibo, where he did the same, and then into the "Verius," [Berbice]. At the mouth of the Essequibo, on his return thither, he found six foreign ships ("navios de enemigos"), manned by Englishmen, who seized him and sent word to Berrio to ransom him for 30 quintals of tobacco, March, 1620." Jameson (J. F.) in U. S. Com. Rep., vol. i, p. 51, following the contemporary Fray Pedro Simon.

questioned by Professors Jameson * and Burr.† Even the British Case itself after quoting Scott in support of

Dutch in the Essequibo.

*Nearer in point of time, but open to objection on other grounds, is the testimony of a paper among the Sloane manuscripts in the British Museum, of which portions (apparently nearly the whole) are printed in the Rev. H. V. P. Bronkhurst's "The Colony of British Guyana and its Labouring Population," London, 1883 (pp. 45–53). It appears to be of the year 1668, and is anonymous.[1] "The sixth colony," the author says, "was undertaken by one Captain Gromweagle, a Dutchman, that had served the Spaniard in Oranoque, but understanding a company of merchants of Zealand had before undertaken a voyage to Guiana and attempted a settlement there" (this no doubt refers to a preceding paragraph, which notes an abortive settlement of Zeelanders at Cayenne in 1615), "he deserted the Spanish service, and tendered himself to his own country, which was accepted, and he dispatched from Zealand, anno 1616, with two ships and a galliot, and was the first man that took firm footing on Guiana by the good likeing of the natives, whose humours the gentleman perfectly understood. He erected a forte on a small island thirty leagues up the river Dissekeeb, which looked into two great branches of that famous river. All this time the Colony flourished; * * * he was a great friend of all new colonies of Christians of what nation soever, and Barbados oweth its first assistance, both for food and trade, to this man's special kindness, anno 1627, at which time they were in a miserable condition; he dyed anno 1664, and in the 83d year of his age, a wealthy man, having been Governor of that Colonie forty-eight years. In this Colonie the authour had the good fortune to meet with some ingenious observations of the former Governor, of what had been transacted in Guiana in his time, to whom the world is obliged for many particulars of this story." A footnote relates how Capt. Thomas Powell, governor of Barbados from 1625 to 1628, "having understood the Dutch had a plantation in the River Dissekeeb," sent to his old friend Captain Gromweagle for aid, and how Gromweagle "persuaded a family of Arawacoes, consisting of forty persons, to attend Powell to Barbados, to learn the English to plant," etc. (Bronkhurst, pp. 46–48.)

The author of this paper can be proved to have been Maj. John Scott, somewhat famous in the history of Long Island and of New Netherland down to 1665. For he says (id., p. 50): "The same year [1665] in the month of October, the author having been commissionated Commander-in-chief of a small fleet and a regiment of soldiers, for the attack of Tobago, and several other settlements in the hands of the Netherlanders in Guiana, as Moroco, Wacopou, Bowroome and Dissekeeb, and having touched at Tobago, in less than six months had the good fortune to be in possession of those countries." Now, by reference to the "Calendars of State Papers, Colonial" (Vol. V, pp. 481, 529, 534), it will be seen, both by Scott's testimony and by that of another, that he was commander of this expedition.[2] John Scott (see the Proceedings of the Massachusetts Historical Society, Vol. VI, pp. 66–74) has not the highest reputation. Lord Willoughby writes to Secretary Williamson ("Calendars," p. 540) that Scott has perchance told Williamson some truth, but not all

[1] The results of Professor Burr's personal investigation of this manuscript will be found [in U. S. Commission Report, vol. ii., pp. 133-138; and in *same*, vol. i., pp. 172–177].

[2] By reference to Professor Burr's stat ments [in U. S. Commission Report, vol. ii, p. 134] it will be seen that the manuscript is undoubtedly by Scott, the original bearing his name.

Dutch in the Essequibo.

the above statement adds that "The date of the actual foundation of the Dutch Colony on the Essequibo is however somewhat uncertain."‡

gospel. Netscher, to whom the document is anonymous, declares that while Aert Adriaenszoon Groenewegel (Scott's "Captain Gromweagle") was commandant on the Essequibo from 1657 to 1666, he certainly did not command there for forty-eight years. He also says, with justice, that the paper is inaccurate in other parts ("Geschiedenis," pp. 42, 43, 358). Yet it seems difficult altogether to discredit it. The Zeeland expedition of 1615 is historical. ("British Blue Book," p. 53, No. 8.) The passage regarding Barbados receives independent confirmation from a contemporary source, "The True Travels, Adventures and Observations of Captain John Smith," London, 1630, in chapter 26 of which we read concerning Barbados: "The first planters brought thither by Captaine Henry Powel, were forty English, with seven or eight Negroes; then he went to Disacuba in the maine, where he got thirty Indians, men, women and children, of the Arawacos." [1]

The indications given by Netscher and, in the last century, by the Zeelanders as to what is or was in the Dutch archives, coupled with the statements of Scott and Smith, are at any rate sufficient to show that by 1627 the Dutch had an establishment, probably Kykoveral, on the Essequibo, though De Laet makes no mention of any in his editions of 1625, 1630, or 1633. [U. S. Com. Rep., vol. i, pp. 62–65.]

‡The other document which gives for the foundation of the colony of Essequibo an earlier date than 1621, lies in the library of the British Museum, where it bears the mark "Sloane MSS., 3662." It is a thin bound volume, lettered on its back "Var. Tracts on the E. and W. Indies." The book is, however, all written by a single hand, and the author has made no effort to conceal his identity, for the volume begins with an elaborate preface, to which he has signed, at the end, his name in full—"John Scott." It is an autograph fragment, or rather a collection of sketches and materials, belonging to an unpublished and probably never finished work on the islands and coasts of America, from Newfoundland to the Amazon, and its author is that Major John Scott, once of Long Island, who, after an all too prominent part in the politics of New England and New York, had fled to Barbados, and who while there had been chosen to lead the expedition which in 1665–66 captured for England the Dutch colonies in Guiana. Among the chapters here completed are those on Guiana and on the West Indian islands, Barbados, Grenada and Tobago. The first named of these chapters, with a long extract from the second, was a few years ago transcribed by a colonial scholar (though apparently without discovery of its authorship) and published in a Guiana newspaper. Thence it was copied into the book of a missionary, Bronkhurst, and so reached the world of scholars. Its reception by historians has not been flattering, and the name of its author will hardly add greatly to its weight, for Scott's reputation for accuracy of statement is not unimpeached. His facilities for information were, however, remarkable, and especially so for Guiana. For his statement as to the founding of the colony of Essequibo in 1616 by one Captain

[1] But from certain documents (to which my attention has been called by Professor Burr), published in *Timehri* for June, 1891, it appears, on Powell's own evidence, not only that these Indians were carried off without any aid from the Dutch, but that Powell knew nothing of the presence of the Dutch in the river. Scott, therefore, is here clearly wrong.

Dutch in the Essequibo.

The other of the two statements above referred to is that in 1621 when the Dutch West India Company was chartered, a Dutch Colony was already established in the Essequibo.§ This assertion, based, as it is, upon Hartsinck's testimony and upon the representations made by the Zeeland Chamber in 1751, has been fully refuted by Professor Burr.‖

Gromwegle, and for the reasons why it must be doubted, I may refer to the report of Professor Jameson.

I have only to add that my own examination of the manuscript records, while vindicating Scott in assigning to 1664 the death of Groenewegel, and while carrying back to 1645 that governor's advent in the colony, brings to light no earlier mention of him in the books of the West India Company, and convinces me that he could not earlier have been commandeur on the Essequibo. That in 1616 he or any other, built there a fort seems unlikely, from the fact that a fort needed to be built there in 1627. That he may in that year have come to some other Guiana colony is not impossible, though the records of the Zeeland admiralty for this and the adjacent years fail to show the name of such a captain. In view of the fact that Scott credits to Groenewegel's "ingenious observations" only a part of the particulars of this story, and in view of his demonstrable inaccuracy as to dates and names in what else he tells us of the beginnings of colonization in Guiana, I think it must be felt that, though there are doubtless elements of truth in his story, his authority is much too slight for a statement else so unsupported, and so inconsistent with facts better known. Is it not more probable that Scott has confused with the original establishment of the Dutch in the Essequibo the founding of the first colony of planters there—the *Nova Zeelandia* of the Walcheren cities—in 1658? Of the latter Groenewegel was, as we shall presently see, indeed the first Commander, and so in a sense the founder. [Venezuelan Counter-Case, vol. 2, pp. 62–65.]

‡ British Case, p. 23, lines 17–19.

§ British Case, p. 24, lines 37–39.

‖ That there is no credible evidence for the presence of the Dutch in this river prior to the year 1613 has already been seen. All assertions of their presence there before the foundation of the Dutch West India Company in 1621 go back to two documents alone. These are aught but confirmatory the one of the other; and each deserves a closer study. Longest known and implicitly (with more or less of distortion) followed by most later writers is the memorial submitted to the States-General, on August 23, 1751, by the directors of the Zeeland Chamber of the West India Company, in defense of its claim to the colony of Essequibo. Its aim was of course a thoroughly partisan one. In the report published in the same behalf a year earlier (in the autumn of 1750) by the provincial Estates of Zeeland, this Guiana colony was alleged to have been in existence and in the hands of the Zeelanders prior to the establishment of the West India Company in 1621; but the only document adduced in support of this was an account book of the year 1627, which could hardly prove anything of the sort. The Amsterdam Chamber, in the reply drawn up by it (January 9, 1751) at the request of the States-General, had passed lightly over this point, resting its claim on action of the Com-

Dutch rights west of Moruca.

3. It seems to be admitted, as already stated, that whatever rights the Dutch may have had in the coast region west of the Moruca, those rights did not grow

pany at a much later period, and content with referring somewhat loftily to the published literature of the subject as showing that Hollanders, too, had traded to the Guiana coast before 1621. But the Zeeland directors felt the claim important, and in their answering memorial (August 23, 1751) came to its support with what seems fresh evidence and with the skill of finished casuists.

Beginning their argument with a reminder of the project of Ten Haeff in 1599, they bring into close connection with him a list of later Zeeland founders of American colonies, without feeling it necessary to point out that the earliest of these began his activity in 1626, and that they have but borrowed the names from an old West India Company record book covering the period 1626–1671. "It is true," they now add, in a sentence well calculated to muddle all later research, "that, as regards the colony of Essequibo, the name of the first projector and founder thereof we have not yet been able with certainty to learn; yet it is nevertheless more than probable that it was first visited and colonized by the Zeelanders, namely, so far as can be traced, by a certain Joost van der Hooge, who thereafter was also the first director of the Zeeland Chamber, and that, if not for several years before the creation of a General West India Company (a conclusion to which much color is given by a certain request presented to the Board of Nineteen in the year 1639 by Jan de Moor, wherefrom it becomes apparent that already as early as 1613, and so eight years before the charter was granted to the West India Company, the colonies on the Wild Coast were already in full existence), at least by the time of the beginning of that Company such an establishment must already have existed there, in view of the fact that in the first mentions of the river Essequibo in the books, registers, and minutes of the Company then brought into existence one finds this colony spoken of as of an already established possession, strengthened by a fort which then bore the name of Fort der Hooge, after an old noble Zeeland family near of kin to that of the noble lords van Borsselen, and shortly thereafter the name of Kykoveral, and yet without the slightest shadow of accompanying evidence that this had come about through the Company or at its order, as would in that case certainly appear in the resolutions of that body. and nevertheless the Zeeland Chamber was at that time in possession of that river and that fort, and also of the trade which was there carried on—these being, perhaps, brought into their hands by those individual founders themselves, who afterwards, as we have already seen, formed a part of the Zeeland Chamber of the said Company and were made directors thereof, as, for example, Messieurs Van der Hooge, Ten Haef, Elfsdyk, Van Peere, and others, who had theretofore traded to the aforesaid coast, were elected and installed as directors in the aforesaid Chamber."

"But be this as it may," they continue, taking breath in a fresh paragraph, "so long as from the side of the Amsterdam Chamber not the slightest evidence can be produced that the aforesaid colony and river, before or at the beginning of the Company, was traded to by the Hollanders or by any other inhabitants of the State except the Zeelanders, it may safely be concluded, on the hereinbefore specified and more than probable grounds, that the inhabitants of Zeeland alone and exclusively,

out of any actual Dutch settlement there, nor out of any continued physical occupation of land on that coast.

Dutch rights west of Moruca.

from the beginning on, have traded to the aforesaid river, erected there their establishments, and, under the care and direction of the Zeeland Chamber, have remained in continuous possession thereof. '*In obscuris enim inspicere solemus quod verisimilius est*,' and '*in pari causa, possessor potior haberi debet*.'"

Now, to anybody who reads with care (as few historians seem to have had the patience to do) these adroitly framed sentences, it is clear that we have here not a positive proof of the existence of the Essequibo colony prior to 1621, but a confession that no such proof can be found. And one needs to read but slightly between the lines to detect that the directors have lighted upon but two items of possible evidence—an uncertain allusion of the year 1639 to the existence of the Guiana colonies in general in 1613, and the mention in early records of the West India Company of a "Fort der Hooge" in connection with the Essequibo.

The alleged request of Jan de Moor in 1639 can not now be verified, for the minutes of the Nineteen for this year are lost; but there is no reason to doubt its existence or its verity. It is, however, clearly a mere reference to the Guiana colonies in general; explicit mention in it of the Essequibo there is confessedly none. It would even seem, from the cautious form of the statement, that its testimony to the Guiana colonies at all is rather inferential than direct.

What is urged as to a "Fort der Hooge" would be more serious were it borne out by the contemporary records on which it claims to be based. These very earliest records of the West India Company still remain to us, and in precisely the copies used by the Zeeland directors themselves. True, the very first volume of the minutes of the Zeeland Chamber itself is now lacking; but there is much reason to believe that it was lacking when this memorial was written, and, had it been in this that the phrase was found, the memorialists would undoubtedly have cited volume and date, as they have done wherever in their memorial these minutes are used. That there is here no citation whatever strongly suggests that what is stated is only an impression. Now, in the extant minutes of the Zeeland Chamber, running without a break from 1626 to 1644, and making frequent mention of the Essequibo colony, there is never any mention of a Fort der Hooge at all; nor have I been able to find it elsewhere in the records of the Company. Nor is this colony at first spoken of, as alleged, as a possession strengthened by a fort; for, as appears from an entry of August 23, 1627, it had as yet no fort at all, though the Company then promises to send soon some men to build one. The name of the fort, Kykoveral, which does not appear in the records before 1644, is thereafter constantly met; and had there been earlier a Fort der Hooge named after a director of the Company, the Zeeland directors would hardly have shown to an influential colleague the discourtesy of constantly ignoring its title. Joost van der Hooge is, indeed, named first, at the organization of the West India Company, among the stockholders and directors of the Zeeland Chamber, and this has seemed to some a reason for accepting the story; but they forget that this place belonged to him, *ex officio*, as burgomaster of Middelburg. It is more probable that the place of his name suggested the tradition. There is nothing in the minutes of these bodies to connect him with Essequibo; and he was not one of those to whom matters relating to this colony were commonly referred. That the authors of the memorial were not writing with the

Dutch relations to coast west of Moruca.

The British Case does indeed contain the following general allegation regarding Dutch relations to that region:

"At the time of the Treaty of Utrecht (1714) the Dutch had "established themselves as the masters of a great part of Guiana, "from various positions on the coast *as far as Barima*, etc.[1]

But this wholly unfounded assertion is made without the citation of any evidence to support it.

The only specific acts which are relied upon to prove it are as follows:

"In 1758 * * * Dutch traders were resident on the * * * "Paraman (Barama). In 1766 and 1768 Dutchmen were settled "in Barima. In 1769 the Prefect of the Missions reported that "a Dutchman had been eight years domiciled on the River "Aguirre * * * ." [2]

Again:

"There is little doubt that at this time there were Dutch plan- "tations in the Aruka, a tributary of the Barima, and at Koriabo "higher up on the Barima. There are still visible traces of set- "tlements at these spots, and they correspond with the descrip- "tion given of Dutch settlements then existing in the records of "secret expeditions made by the Spaniards to the Barima in 1760 "and 1768. In the latter year the Spaniards secretly and without "previous complaint made a raid upon Barima and destroyed

documents before them may be guessed from the fact that, of the three others whom they mention with Van der Hooge as Guiana patroons who had earned a seat in the Zeeland Chamber by the transfer of their colonies, not all were original members of that chamber.

There is, too, another claimant to the name of Fort der Hooge, or Ter Hooge.

When in 1657 the control of the Essequibo had passed into the hands of the three Walcheren cities (Middelburg, Flushing, and Vere), and they had planted in its region their new colony and given it the new name of Nova Zeelandia, there stood on the bank of the Pomeroon, we are told, not only the fortress Nieuw Zeeland, and below it the village Nieuw Middelburg, but a little further downstream the "*Huis ter Hooge*"—believed to have been a fortified lookout. The Zeeland Estates, in their paper of 1750, fell into the error of supposing the colony of Essequibo to have borne from its outset the name of Nova Zeelandia. This the Zeeland directors corrected; but is it not possible that they fell into the kindred error of forgetting the site and date of the Fort ter Hooge? [Venezuelan Counter-Case, vol. 2, pp. 58–62.]

[1] British Case, p. 32, lines 8-11.

[2] British Case, p. 48, lines 6-13.

"a Dutch plantation, which was probably in the Aruka, but they "did not themselves hold or occupy the district of the river."[1]

Dutch relations to coast west of Moruca.

And again:

"The traces of cultivation remaining in the Aruka and at Ko-"riabo probably mark the sites of plantations, one of which was "probably that destroyed by the Spanish secret expedition in 1768 "and another that reported in 1760, but which was situated too "far up the Barima for the Spaniards to reach."[2]

Incidents relied upon to prove Dutch occupation.

These various passages contain allegations with reference to five possible incidents.

The first of these is that Dutch traders were *residing* in the *Barama*[3] in 1758. To support this assertion the British Case cites Fray Benito de la Garriga; but Fray Benito makes no mention whatever of any Dutch *residents;* his reference is purely to Dutch *slave traders sojourning* in Tucupo, Capi and Paraman.[3] This first incident therefore falls because the very evidence cited to support it contradicts it.

The second is that "there is little doubt that" in 1760 Dutchmen were settled and had plantations on the River Barima and on the Aruka, a tributary of the Barima.[4] For this assertion there is not a word of evidence. In fact the account of the Spanish expedition of this date flatly contradicts it; and the existence of any Dutch plantation in the Barima at this time is not to be reconciled with what is known of the occurrences of 1766. It was only *slave traders* who were in question in 1760.

The third is that in 1766 Dutchmen were settled in the Barima. This statement has, for its only foundation,

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[1] British Case, p. 51, lines 36-47.

[2] British Case, p. 68, lines 29-35.

[3] *Paraman*, not Barama nor Barima. Garriga says "Numbers of Dutch * * * *remain in* the places called Tucupo, Capi and *Paraman, to buy slaves.* These places are in the interior, * * *" British Case, Appendix, II, p. 147, E.

[4] British Case, p. 51, lines 36–39.

Incidents relied upon to prove Dutch occupation.

a quarrel between two Dutchmen in Barima resulting in the arrest of one of them, and in an order of the Court of Policy "*forbidding any one to stop in Barima.*"[1]

The fourth is that in 1768 Dutchmen were settled in the Barima. While the evidence cited to support this allegation unquestionably shows that there were at that time some "foreigners clandestinely settled for commerce and traffic in the creek called the Creek of Barima, jurisdiction of this (Guiana) province,"[2] it nevertheless furnishes at the same time the most convincing proof of Spanish control there; it tells of the expulsion of those very foreigners by Spanish officials, of the destruction of their dwellings, and of the seizure and judicial sale of their effects.[3] But apart from this there is every reason to believe, as Professor Burr has pointed out, that of these "foreigners" only one was a Dutchman, the rest being English from Barbadoes and French from Martinique,[4] and even this one Dutchman was there in direct defiance of the authority of the Essequibo colony.

[1] British Case, Appendix, III, p. 132.

[2] British Case, Appendix, III, p. 168.

[3] On the 18th April, 1768, * * * Don Francisco Cierto * * * having been questioned, * * * declared: "That the Commandant-General there present having received information that in the creek called the Creek of Barima * * * sundry Dutch families were established, dispatched him with instructions to warn them once, twice and thrice to quit the whole of that territory because it belonged to the said province (Guiana) in virtue whereof the declarant went in his vessel, * * * they only found the deserted houses and the effects, implements and utensils contained in the inventory, which they put on board the two vessels and then set fire to the said houses, in order that they should not form settlements in future," British Case, Appendix, III, pp. 170–171.

[4] The Spanish testimony to this exploit speaks of "sundry Dutch families and of "the foreigners," and mentions the houses and plantations as if there were several establishments. Bnt, had there been any other settlers from Essequibo, it seems probable that Storm would have learned it, if only from the widow La Riviere, and would have mentioned it to the Company. It is possible that the other settlers, if such there were, were from other colonies—not improbably French, or English from the islands. In the library of the British Museum, in that volume of the Egerton manuscripts calling itself *Papeles Tocantes á la Provincia de Venezuela, Vol. III, 1773-1798* (marked Press 542. G.); there is a copy of a letter, addressed by Andrés de Oleaga, Contador of Guayana, to Josef de Abalos, Intendente of Carácas,

Incidents relied upon to prove Dutch occupation.

The fifth is that in 1769 a Dutchman had been "domiciled with the Caribs more than eight years buying slaves from them."[1] There is some reason to believe that this Dutchman was from *Surinam* and not from Essequibo; certainly if he was there at all it was in no official capacity, but at best merely as a private individual engaged in the slave trade: what is even more to the point, the place of his sojourn is given as the *Aguirre*,[2] a river lying in territory confessedly Venezuelan, and far outside of Great Britain's present extreme claim.

Present traces of former plantations are appealed to by Great Britain to prove Dutch occupation. Schomburgk's testimony as to certain trenches "at the mouth of the Barima"[3] is invoked, and living witnesses are made to tell of traces of former cultivation at various

which seems to throw a light on this. It contains this passage (fol. 70, lines 19–25): "Covetous of this spacious and attractive territory on the banks of the river Barima, the English of Barbados, united with the Dutch of Essequibo, established a colony, and in the year 1778 were dislodged by action of this government through the agency of the privateer boats of this place; and, in spite of the watch which has been kept, the English have continued to make great ravages on the timber." ("*Envidiosos de este grande y ameno territorio en la margen del Rio Barima, establecieron colonia los Yngleses de la Barvada, unidos con los Olandeses de Esquivo, y el año de 1778 fueron desalojados por disposicion de este Govierno por las lanchas corsarias de esta Plaza, y por mucho que se ha vigilado siempre han hecha grandes sacas de maderas los Yngleses.*") Now "1778" is here a quite impossible date; for the letter itself, though misdated "1777" (November 15), is an answer to one of August 14, 1778, and must have been written before the end of that year. Inasmuch as the Spanish purging of the Barima in 1768 answers so perfectly to the description in this passage, while none of 1778 is known from the records, it seems a fair conjecture that "1778" is here but an error for 1768, and that the other settlers then ousted from the Barima were therefore English. That Oleaga was likely to know whereof he spoke will appear from the fact that it was precisely he who in 1768 as Royal Accountant in Santo Thomé received and invoiced the confiscated property. (Blue Book "Venezuela No. 3," pp. 274–280; Venezuelan "Documents," I, pp. 231–234.) Governor Storm at first believed the attack instigated by certain deserters from the Moruca post and plantation (Blue Book "Venezuela No. 3," pp. 148, 154; Extracts, pp. 440, 442); but there is no mention of these in the Spanish documents, and Storm himself later speaks of it as simply the work of the Spaniards (Extracts, p. 453). [Venezuelan Counter-Case, vol. 2, p. 134.]

[1] British Case, Appendix, IV, p. 20.

[2] British Case, p. 48, lines 12–13.

[3] British Case, Appendix, VII, p. 13.

Incidents relied upon to prove Dutch occupation.

other points. So far as Schomburgk is concerned, Professor Burr disposes of his theory of a Dutch post at the mouth of the Barima in the following note:[1]

"The assumption of Mr. Schomburgk, so constantly repeated "since, that it was at the mouth of the river, is without docu- "mentary warrant and improbable. No object for such a site— "without water and remote both from the Caribs, with whom the "Dutch wished to trade, and from their own colony—is easily con- "ceivable. It is impossible that such a shelter could have left the "remains which Mr. Schomburgk says Colonel Moody found there "in 1807.[2] It is far more probable that these were remains of the "fort built by the French in 1689.[3] The Surinam expedition sent "to the Orinoco in 1711 stopped at the mouth of the Barima, both "in going and coming, and makes no mention of a shelter there, "though its journal always mentions one when found.[4] That site "would have been a more natural one for the French, who, on "their way from the islands to the Barima, would here first reach "the mainland, than for the Dutch of the Guiana colonies, who "came through the Moruca and reached the Barima by the Mora "Passage. I have never yet found in any Dutch document a men- "tion of Barima Point, and have no reason to believe that the "Dutch ever attached importance to it. Not even the description "of Hartsinck or the map of Bouchenroeder, though so often cited "in support of the claim, place the traditional Barima post at the "mouth of the river. Hartsinck speaks of it only as 'on the "river,' and Bouchenroeder's map places it above what must be "meant for the Mora Passage. There is, of course, no reason to "suppose that either had any definite knowledge as to the "matter."

As to the other statements regarding artificial canals and fruit trees, relied on to prove settlements of Essequibo Dutch, it is difficult to discern in them anything serious. If their origin be really European, their existence is entirely accounted for by the mongrel settlement of 1768 already mentioned—a settlement

[1] Venezuelan Counter-Case, vol. 2, p. 124.
[2] British Case, Appendix, VII, p. 13.
[3] Venezuelan Counter-Case, Vol. II, p. 123.
[4] U. S. Commission Report, Vol. ii, pp. 224–228.

Incidents relied upon to prove Dutch occupation.

made up of Englishmen from Barbadoes, of French from Martinique, and of the renegade colonist Jan la Rivière from Essequibo. It was a settlement which was not only not authorized by the Essequibo authorities, but was in defiance of those authorities, and was promptly and publicly suppressed by the Spanish officials. Apart from these outlaws it is not unlikely that "Mener Nelch" may have contributed his share to the fruit trees and ditches. He was a Dutchman who at one time was postholder in Moruca, but who having been discharged for incompetence probably wandered off and for a time lived with some Caribs on the Aruka.[1]

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[1]There is never again mention in Dutch documents of the stay of any Dutchman in the Barima. A Spaniard, however, the young officer Inciarte, who in 1779, on his way to the Pomeroon, made a reconnoissance of the lower Barima, found in the Aruka, its lowest western tributary of importance, at the distance of a league from the Barima, a hill "which was a few years ago inhabited by a Dutchman from Essequibo called Mener Nelch and by certain Indians of the Carib tribe." At the foot of this hill he found the hulls of a large pirogue and of another craft, and was assured by an Indian that these had belonged to the Dutchman. On the hill he found survivals of coffee, banana, and orange trees. Further details he noted in a diary, which unfortunately is now lost.

"Mener" is doubtless *Mynheer*. It would be hard to represent its sound more accurately in Spanish. "Nelch," I suspect to be a distortion of *Nelis*. Diederik Nelis was a man well known to Essequibo records. In 1765 it was only the timely encounter with "the colonist Diederik Nelis coming from Barima" which saved three lost sailors from starvation. In August, 1767, Nelis was living in the upper Essequibo, "up near the plantation Oosterbeek." It was to him that the Caribs reported the desertion of the post Arinda; but before the end of that year he had been provisionally made postholder at Moruca, though the governor confesses his incompetence, and implies that he was a man addicted to drink. There he was kept until 1774, when he was replaced by the bylier Vermeere.

As postholder in Moruca at the time of the Spanish sack of the La Riviere plantation, and as himself expressly charged with attention to all that transpired in Barima and with the exclusion of Essequibo settlers, Nelis must have become more familiar with the place, and may easily have betaken himself thither on his release from his duties at Moruca. As the La Riviere plantation had already been cleared, and as the same considerations, agricultural and political, which would direct his choice of site and of soil must have influenced La Riviere before him, it is surely not improbable that the site occupied by Nelis (if "Mener Nelch" was really he) had been La Riviere's as well. [Venezuelan Counter-Case, vol. 2, pp. 134–135.]

Incidents relied upon to prove Dutch occupation.

The only other allegation of the British Case as to Dutch occupation of this region is the following:

"Two years afterwards [1676] the Spanish Council of War of "the Indies brought forward the question of the Dutch Colonies "on the Coast of Guiana, and suggested a remonstrance with the "States-General on the ground that they were establishing new "settlements in the Indies without informing the King of Spain, "but it was resolved that to bring such a complaint before the "States-General of the United Provinces was not advisable. It "is to be noted that the attention of the Council was called to "the fact that the Dutch at that time held the chief portion of "the Coast of Guiana from Trinidad to the River Amazon, and "had settlements in Berbice, Essequibo and Surinam."[1]

The evidence cited in support of this statement shows that what the Spanish Council had under consideration was a proposed Dutch Colony at *Cape Orange* between the *Wiapoco* and the *Amazon*, about 500 miles east of the present disputed territory; and that, while it is true that the general and very exaggerated statement was made to the King that the Dutch possessed "the greater part of the coast from Trinidad to the River Amazon," this statement was at once qualified by the following phrase: "for they already have settlements in Barbiche (Berbice), Sequiebes (Essequibo) and Surinamte (Surinam)."[2]

Spanish control of coast—Swedes in Barima.

4. The visit of the Swedes to Barima, cited by the British Case as an instance of Dutch jurisdiction in that region, so far from proving *Dutch* control, furnishes instead a convenient introduction to the subject of *Spanish* control. As already stated, this Spanish control, while denied in general terms is nevertheless in fact recognized by the British Case, because specific acts of Spanish control are admitted without anything substantial to counteract their effect. Some of these

[1] British Case, p. 29, lines 4–18.
[2] British Case, Appendix, I, p. 178 E.

specific acts will presently be mentioned: before passing to them, it is important to note that the conduct of Spain towards these Swedish intruders, so far from proving the *presence* of Dutch control in Barima, demonstrates the *absence* of that control, and the exercise there of Spanish sovereignty. Swedes in Barima.

The statement of the British Case in this connection is as follows:

"In March 1732 a Swedish captain with a small vessel arrived "in the River Essequibo. After his departure a rumour reached "the Colony to the effect that he would return to take possession "of a tract of land in the River Barima which, it was reported, "the King of Spain had presented to the late Elector of Bavaria, "who had been Governor of the Spanish Netherlands, and who "had in turn given it to the King of Sweden. Later in the same "year a report reached the Spanish Island of Trinidad that the "Swedes were founding a settlement in the neighbouring island of "Tobago. Alarmed by this report, the Spaniards sent to enquire "into the facts, and, not being satisfied with the result of their "inquiries, dispatched an officer up the Orinoco to Guayana to "obtain information. On his return he reported that he had "learned from the Caribs of Barima, that a number of white "men had been seeking to establish themselves at that point, and "that a Carib Chief, with a large force, was established in the "creek, who had received orders from the Dutch 'not to show "'the Swedes a good place for their settlement, as they them-"'selves would give them all they required.' The King of Spain, "on receiving this report, directed the Governors of Carácas and "Margarita to take whatever steps they might consider necessary, "but the Governor of Orinoco had, apparently, before receiving "this order, written to the Governor of Essequibo a despatch, in "which he suggested that the Dutch Governor should not "tolerate the Swedes in their neighborhood. The Governor of "Essequibo reported to the West India Company that, should "the Swedes try to establish themselves between the Orinoco and "the Colony of Essequibo on the territory of the Company, he "should be obliged to try to prevent it."[1]

[1] British Case, pp. 34–35.

Swedes in Barima.

The evidence cited by the British Case in support of this statement warrants the following counter-statement:

On June 8, 1734, the Dutch Commandeur of Essequibo wrote to the West India Company that reinforcements had arrived for the Spaniards of Orinoco, and that, to quiet any apprehensions on the part of the Dutch, the Spanish Governor had written, explaining that these reinforcements had been sent to prevent the Swedes from carrying out a reported plan to found a colony on the River of Barima "lying *between* the Orinoco and *your Honours' Post at Wacquepo.*"[1] The Spanish Governor had in the same letter suggested the inconvenience to the Dutch themselves of having the Swedes, not, let it be noted, on Dutch *territory*, but in the Dutch "*neighborhood*," the evident intent of this suggestion being to further quiet Dutch apprehension and to win Dutch approval of the action proposed to be taken by Spain herself.

In commenting upon this to the Company, the Dutch Commandeur bemoaned the weakness which would prevent his making any effective resistance in case the Swedes should establish themselves "*between* the Orinoco and this Colony." Though the claim of Spain to this territory between the Orinoco and the Dutch post at Wacquepo and her purpose to use her troops there were thus made known to the Dutch Commandeur and by him to the Company, the answer of that Company not only contains no words of protest against Spain's proposed action, but even the Commandeur's suggestion, to himself do something to prevent the Swedish settlement, is wholly ignored. In contrast to this indifference on the part of the Dutch authorities is the following order made by the King of Spain for the protection of Barima:

[1] British Case, Appendix, II, pp. 17–18.

"In a letter of the 18th July of the year before last [1732] "Don Rafael de Eslaba, President of my Royal Court of the city "of Santa Fé in the new Kingdom of Granada, having communi- "cated the representation made by Father Joseph Gumilla, "Superior of the Missions of the Orinoco, with respect to the set- "tlement which the Swedes were attempting to make in River "Barima, for whose ejection the Court of that Kingdom had "previously taken measures; and as soon as the said President "entered on his office, he requested the said Father Joseph "Gumilla to repeat his former information, that he might take "the necessary steps; but thinking this a matter of considerable "gravity he sends an account of it for his reassurance. Having "considered the matter in my Council of the Indies, and taken "the advice of my Fiscal thereupon, I hereby command that with "what people you have and with the Capuchin Missions, you take "all proper measures to prevent the settlement attempted by the "Swedish nation from being established, and that you give me "an account of your proceedings herein at the first opportunity.[1]"

Swedes in Barima.

The above is but one of many acts showing Spanish control of this coast region: they were numerous and constant; many of them have been set forth in the Case of Venezuela; some of them are admitted, in the British Case, in passages making mention of Spanish interference with Dutch fishing and capture of Dutch craft, particularly in 1746, 1760, 1762 and 1768.[2] A letter of the Director-General of Essequibo, dated June 1st, 1768, wherein it is distinctly declared that the Spaniards had by that time completely put an end to Dutch fishing near the mouth of the Orinoco, is quoted by the British Case.[3] The explanation offered viz: that the interference of the Spaniards was always upon the plea that the vessels were not fishing but smuggling, even if true, tends to strengthen rather than to weaken the proof of Spanish authority; for it discloses a Spanish discretion

Spanish control of coast.

[1] British Case, Appendix, III, p. 82.
[2] British Case, p. 53.
[3] British Case, pp. 52–53.

Spanish control of coast.

in permitting certain acts and forbidding others. Besides this interference with Dutch fishing and smuggling, the British Case admits the Spanish expeditions of 1760 and 1768, which, it will be remembered, resulted in the flight or expulsion of such Dutchmen as had surreptitiously attempted to establish themselves in the Barima for purposes of trade or smuggling. These admitted acts on the part of Spain, especially in the absence of any Dutch acts of control in that region, warrant the statement heretofore made, that according to even the British Case itself the coast between the Orinoco and Moruca was under Spanish control.

British "*occupation*" of coast.

5. Apart from a general allegation to the effect that Great Britain controlled the entire coast from the earliest days of the British occupation of Essequibo, the only *specific* acts, prior to the agreement of 1850, cited to support this allegation are an alleged survey of "the captured Colony" "during the period of their occupation" [1781], and an alleged apportionment of lands in 1797. The first of these acts was anything but a survey of the "captured Colony." Writing about it in 1790 to the Count del Campo, Fermin de Sincinenea says, that *in anticipation of a war with Spain* the English, when in possession of Essequibo, Demerara, and Berbice, had surveyed, or rather had taken soundings, along the coast from Essequibo to the Orinoco and *for even ten leagues up the latter river*. It is evident that this, so far from being a *survey* of a *Dutch Colony*, was rather a *reconnoissance of Spanish territory* preparatory to a hostile attack.[1]

Neither can the alleged apportionment of lands by the English in 1797 constitute any evidence of British occupation. Great Britain and Spain had been at war with each other since October, 1796; a report reached

[1] British Case, p. 57; also, *Same*, Appendix, V, p. 76.

the Spanish Governor of Orinoco in 1797 that the English had apportioned the lands on the coast as far as Barima; but, instead of acquiescing in any such act, the Spanish Governor gives the following account of what he did:

British "*occupation*" of coast.

"Although this news is not as clear as an affair of so much "importance demands, I have nevertheless considered it well not "to despise it altogether, and, consequently, in order to assure "myself thereof, in conformity with my duty, I have dispatched "Captain Don Manuel Astor, with the assistance of His Majesty's "revenue-cutter on this river, together with whatever boats and "Indians he may consider necessary, to proceed at once to Point "Barima, to reconnoitre it and make a scrupulous investigation "into the truth of this matter, or obtain proof that it is "unfounded. In case of finding any of the Notices that are said "to be posted up, he is to bring one back with him for greater "evidence, but on no account is he to go any distance from that "point, on account of the danger of falling in with the enemy's "cruisers, which are known to be cruising in the mouths of the "river, or into an ambuscade which the English may have pre-"pared. For the little force which he is taking to carry out his "commission is not enough for a greater expedition." [1]

The account of what followed shows that a Spanish reconnoissance was in fact made, but that whatever the English may have done *on paper*, the actual *frontier guard* was "placed *at* the mouth of the Moruca."[2] Of course no further action by Spain was called for at that time when actual hostilities were pending, and as Great Britain did not thereafter, either during the war or after the re-establishment of peace, take possession of any part of the coast west of the Moruca, no further notice was taken of the matter.

British jurisdiction in Barima.

Prior to the agreement of 1850 the only other acts relied on by Great Britain to establish her right to Barima relate to certain visits there in 1838 of the newly

[1] British Case, Appendix, V, pp. 164–165.
[2] British Case, Appendix, V, p. 165, E.

British jurisdiction in Barima.

created British "Superintendent of Rivers and Creeks," residing on the Pomeroon. These acts will be considered later in connection with the question of Indian relations: for the present it is sufficient to note two things; first, that the year 1838 is the earliest year in which any mention of such visits is to be found; second, that even then the evidence cited by Great Britain shows that the "Superintendent" had no thought of extending his jurisdiction to the boundary claimed by Schomburgk.

Of course Venezuela knew nothing of any of these visits, and hence made no protest against them; as soon, however, as Schomburgk's surveys made it known for the first time that Great Britain claimed the Barima-Waini region, a vigorous protest was made by the Venezuelan Minister in London;[1] and this resulted in the removal of the boundary posts erected by Schomburgk:[2]

Agreement of 1850.

shortly thereafter the agreement of 1850 between Venezuela and Great Britain forbade any occupation of this territory by either nation.[3]

Great Britain admits that this agreement continued binding upon her until at least 1886,[4] but she alleges that the granting of certain concessions by Venezuela constituted a violation of that agreement.[5] The maps, reports and prospectuses, printed in the British Appendix in support of this allegation, were all private acts of the grantees of the concessions; and Venezuela can in no way be held responsible for them. The concessions themselves never specified any portion of the territory in dispute; they were always limited on the east by "British Guiana," without any other specifi-

[1] Venezuelan Case, Vol. 3, p. 197.
[2] Venezuelan Case, Vol. 3, pp. 207–208.
[3] Venezuelan Case, Vol. 3, p. 213.
[4] British Case, p. 18, lines 36–42.
[5] British Case, p. 73.

cation of boundaries; and it is a mistake to attribute to Venezuela the maps referred to or printed by Great Britain in Volume VI of the Appendix to her Case, in the foot note on page 217, or opposite pages 222 or 237. It is also a mistake to attribute to her the statements contained in document No. 903 (p. 220) of the same volume, or the statements in any other document emanating from the grantees of the concessions referred to, or from the agents of such grantees. Such maps and documents were prepared and printed without any authorization, express or implied, from the Government of Venezuela.

Agreement of 1850.

6. Dutch occupation of the interior never went beyond the lowest falls of the three rivers Essequibo, Cuyuni and Mazaruni. The facts alleged in the British Case to disprove this statement themselves constitute the best evidence in its favor.

Limits of Dutch occupation in the Interior.

To prove that from 1681 onwards

"the area of actual plantation extended along the rivers Cuyuni, "Massaruni, and Upper Essequibo",[1]

the British Case cites the fact that

"In 1681, an island *in the mouth* of the River Cuyuni was "cleared and planted with cassava for the use of the garrison;"[2]

and that in 1694 the Dutch Commandeur reported that he had

"again begun to make here a new plantation *in the River Cuyuni above the fort.*"[3]

In another place reference is made to an

"annatto store at a Carib village above in Massaruni" and to "a "dye store in the Cuyuni."[4]

No further light is thrown upon the location or nature of these "stores;" and the reference to facts so

[1] British Case, p. 29, lines 40–42.
[2] British Case, p. 29, lines 42–45.
[3] British Case, p. 29, lines 47–48.
[4] British Case, p. 31, lines 17–20.

Limits of Dutch occupation in the Interior.

vague and unimportant would seem to indicate a dearth of more substantial settlements.

A single plantation, called Poelwijk, is stated to have been moved to "a position above the falls" in 1704:[1] this solitary experiment by the Dutch in cultivation above the falls, even if true, must have been short lived, for as the British Case itself states :

> "In 1722 the officials of the Company were making explora-
> " tions in order to ascertain the nature of the soil in the interior
> " with a view to plantations, and a Report by Maurain Saincterre,
> " an engineer of the Company, stated that the ground was even
> " better above in the Rivers Essequibo, Massaruni, and Cuyuni
> " than below, but that the rocks, falls, and islands had, up to that
> " date, prevented Europeans from establishing sugar plantations
> " there."[2]——

The settlement of the revolted creole slaves in 1738, referred to on page 35 of the British Case, was indeed on an island in the Cuyuni; but the island was *below* the falls; and this proves, if it proves anything, that even *below* those falls Dutch authority was too weak to maintain Dutch sovereignty, for these slave rebels had to be compromised with.

Dutch Post of 1754–1758.

The facts as to the various trading posts of 1703, 1754–58, 1766–69 and 1769–72 have been sufficiently set forth in the Case of Venezuela, and in an earlier chapter of this Counter-Case. The location of the second of these posts, namely, that destroyed by the Spaniards in 1758, has been very fully considered by Professor Burr, and his location of that post is certainly the most western which the evidence will warrant.[3] The statement of the British Case that it was located "somewhere between the mouth of the Curumo and

[1] British Case, pp. 31–32, lines 49–50, 1–3. The falls referred to are the *lowest* in the Mazaruni. See Venezuelan Case, Atlas, maps 59, 60, 70.

[2] British Case, p. 33, lines 26–35.

[3] Venezuelan Counter-Case, Vol. 2, pp. 155–165; *also* Atlas to Counter-Case, map 28.

that of the Acarabisi"[1] is an abandonment of the claim which had been advanced by the earlier British publications that the site was *at the mouth of the Curumo*. In the map submitted with the British Case, the phrase "somewhere between the mouth of the Curumo and that of the Acarabisi," is made to mean a little *below* the mouth of the Acarabisi; and this without offering so much as a shred of fresh evidence or indeed any evidence, new or old, for such a site. Nor does it answer by so much as a word the arguments drawn by Professor Burr from the concurrent and explicit testimony of the contemporary witnesses, both Spanish and Dutch—the Dutch governor and the postholders, the Spanish raiders and the Capuchin prefect—as to the distance of the post from the Essequibo on the one side and the Spanish missions on the other.

Dutch Post of 1754–1758.

Not less important are the admissions of the British Case as to the Dutch post of 1766-69. In the first place, it is conceded that "the description of the work done upon it certainly is that of a new clearing in a new place," and that "there is little doubt that the site of this Post was lower down the river than that of the former Post." This conclusion harmonizes strikingly with the proofs and arguments of Venezuela showing the constant pressure exercised by the Spaniards in the Cuyuni in the interval between the two posts, and the terror in which they here held the Dutch and their Carib friends. Venezuela accepts, therefore, without question this concession of Great Britain.

Dutch Post of 1766–1769.

In the second place, the advanced site claimed by Mr. Schomburgk, and by others after him, for this post, is definitely abandoned by the British Case. There is no mention, by the Case, of the Island of Tokoro (Tocro,

[1] British Case, p. 47, lines 46–48.

Dutch Post of 1766–1769.

Tokoro-patti) or of the Indian testimony which placed there a Dutch postholder. Discarding this, the British Case places the post of 1766–69, not on an island, but "on the banks of the river," and close (as is clear from the context) to the island of Toenamoeto "at the rapid of Tonoma," just at the head of the Cuyuni gorge, where the Dutch postholder made his last stand.[1]

This conclusion, too, falls in wholly with the evidence urged by Venezuela as to the Spanish advance in this quarter; and the position taken by the British Case as to the site of the post of 1766–69 she fully accepts. The importance of these concessions to the question of the control of the Cuyuni basin it would be hard to overrate.

Dutch Post of 1769–1772.

Of course the final post of 1769–72 was lower down still, as is admitted by the British Case in the following words:

"it is probable that the Postholder had come nearer the settled "districts, for Storm van 's Gravesande states that he would have "liked to move the Post gradually higher up the river."[2]

Extent of Dutch occupation.

In spite of all these Dutch failures at occupation above the falls, the British Case makes the following impossible claim:

"At the time of the Treaty of Utrecht (1714) the Dutch had "established themselves as the masters of a great part of Guiana, "from various positions on the coast as far as Barima, to the "Pariacot Savannah beyond the River Cuyuni in the interior of "the country, and they were already opening up the higher "reaches of the Essequibo. Their plantations and settlements

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[1] "After trying a site on the banks of the river, the Postholder in 1769 moved the post to an island between two falls which he called Toenamoeto. . . . Toenamoeto is at the rapid of Tonoma."—(British Case, p. 52, lines 7–15.)

It is true that the map accompanying the British Case still places this post at Tokoro; but this must be an oversight, as the text shows.

[2] British Case, p. 52, lines 11–15.

"lined the banks of the Essequibo, Massaruni, and Cuyuni for "some distance from the junction of the three rivers." [1]

Extent of Dutch occupation.

More nearly in accord with the real facts is the following later statement of the British Case:

"Upon the Essequibo, the Massaruni, and the Cuyuni, planta- "tion was not extended at this period [1840-41], the soil above "the estuary not being sufficiently fertile. But in 1831 the "country was described as settled to the falls of the three "branches of the Essequibo, namely, the Essequibo, Massaruni, "and Cuyuni." [2]

What is thus admitted to have been the situation above the falls in 1831 and in 1840-41, may with entire truth be said of every other period. Neither Dutch nor settlements passed above the lowest falls of these rivers British until long after the agreement of 1850; and then it was in violation of that agreement that they passed them.

Spanish strength in Orinoco.

7. Spanish strength on the Orinoco and in the Cuyuni-Mazaruni Basin is made light of by Great Britain, but that strength is a fact which she admits and tries to explain away, not a fact which she denies. About Santo Thomé itself, no question is or can be raised. At times, doubtless, its population was small and its houses few; yet it always served as a base for Spanish operations into the interior; and the communication between it and Trinidad required and resulted in the maintenance of Spanish control over the entire Orinoco river to its mouth. Santo Thomé was itself at times surprised and pillaged by foreign freebooters; but the Spanish strength in the Orinoco was always adequate to prevent these from gaining any permanent foothold upon its banks.

Spanish Missions.

As to the missions, while their importance and extent

[1] British Case, p. 32, lines 8–18.
[2] British Case, p. 65, lines 5–11.

Spanish Missions.

are conceded, a strenuous effort is made to minimize as much as possible both of these facts. The "peaceful development" of the Essequibo colony is contrasted with the "severe struggle" of the Spanish settlement:[1] the mission villages are pictured as always on the defensive against the Caribs: the existence of some missions is denied even where the documents accompanying the British Case tell of their location and history.

That a contrast existed between the conditions of the Dutch and Spanish colonies is very certain; but that contrast was not the one pictured in the British Case. It was a contrast between Dutch fear of extinction and Spanish power; between Dutch influence on behalf of barbarism and Spanish influence on behalf of civilization; between the final withdrawal of the Dutch to the mouth of the Essequibo, and the gradual spread of Spanish settlement over the interior. This contrast reached its climax when direct conflict ensued between Dutch and Spanish strength, resulting in the destruction of Dutch posts, in the expulsion of Dutchmen from the Cuyuni, in the prevention of Dutch fishing, in the capture of Dutch vessels, and in the flight of even Dutch smugglers and slave catchers from the Barima-Waini region.

The facts in support of these statements have been already fully set forth in the Case of Venezuela, and are confirmed by the evidence which Great Britain has herself submitted.

Carib attacks.

The Carib attacks on the missions are proof of Spanish strength rather than of Spanish weakness. The Caribs who made these attacks were of two kinds: in the first place they were of those who had been gathered by the Spaniards into the missions, and who, restive under Spanish authority sought to throw off the

[1] British Case, p. 37.

Spanish yoke; in the second place they were of those who, still wandering through the forests in search of human prey with which to furnish the Dutch market, felt, even there, the power of the missions to obstruct that trade. Had this form of obstruction not been felt, the wild Caribs of the woods would never have molested the Spanish missionaries. These Carib attacks and revolts were at times successful, but in the end all Caribs were either reduced to subjection or else driven out of the Cuyuni by Spain. Up to 1750 none of the Capuchin missions had been destroyed by Caribs, and notwithstanding the attacks of 1750 and of later years these missions were exceedingly prosperous.[1]

Carib attacks.

The dates of foundation of the missions, the number of these, their location and extent eastward, are often greatly confused or misstated by the British Case. For instance, in the following lines, the missions of Caroni and Suay are confounded:

Spanish Missions.

"The first Mission founded in this territory was La Purisima "Concepcion del Caroni, more commonly known as Suay, in "1724."[2]

Now Caroni and Suay were not the same. The mission of Caroni, founded directly after Suay, was called San Antonio until the suppression of Suay in 1762, when it took the name of La Purisima Concepcion. It was several miles west of Suay, as will appear, for instance, from the Capuchin Map of 1735,[3] or from the report of the Spanish Governor in 1743.[4]

Again, the mission of Mutanambo, which was one of those destroyed by the Caribs in 1750, is alleged by the

[1] See, as to this, Venezuelan Case, vol. 2, pp. 286–290, where extracts are given from a report by Gregorio Espinosa de los Monteros, Governor of Cumaná, and Venezuelan Case, vol. 3, pp. 369–372 for further details by the same Governor.

[2] British Case, p. 38, lines 38–40.

[3] Venezuelan Case, Atlas, map 72.

[4] Venezuelan Case, vol. 3, pp. 369, 370.

Spanish Missions

British Case to be mentioned "nowhere" except in a letter of Fray Benito de la Garriga of July 6th, 1769;[1] but the British Atlas[2] itself contains the maps of Cruz Cano and of Surville, in both of which the mission is given.

As to the "most easterly" mission at various dates, the British Case is seriously in error. It makes seven allegations as to this, every one of which is wrong.

1. It states that in 1734 "the most easterly Mission appears to have been Alta Gracia."[3] If by this is meant to be implied that Alta Gracia represented the farthest advance of Spanish missions into the region in dispute it is an error; even the British atlas (map 1) shows Cupapuy as over the divide and in the savanna region.

2. In speaking of the year 1746 it says:

"In 1746 the Mission of San Miguel del Palmar seems to have "been founded, and in the same year a rumour reached the Dutch "as to the progress of the Spanish Missions. It was reported to "the Commandeur 'from up the Cuyuni' that the Spaniards "had established a Mission above on the said river, and had "established a fort there. The Spanish documents which have "been above referred to show that the Missions had advanced no "nearer than Divina Pastora and Palmar."[4]

The documents referred to fail to show this. The Curumo Mission, which was much further east, was the one which caused the Dutch so much disquietude in this year. Whether it was formally *founded* in 1746 or not, is possibly doubtful; but, whether *founded* or not, it was in existence. It is well known that the preparations for a mission often occupied two or three years, sometimes more, before its formal *foundation.*

[1] British Case, p. 41, lines 37–44.
[2] Maps 27 and 29.
[3] British Case, p. 39, lines 9, 17–18.
[4] British Case, p. 39, lines 20–29.

Spanish Missions.

Thus a settlement (Tupuquen) was being planned in 1743[1] though not "founded" till February, 1748.[2] Cunuri was started in 1743, a year before its formal "foundation" in February, 1744.[3] Yuruari (Aima or San Joseph de Leonisa) was in June, 1754, already "in a very good state *of restoration*," though not formally *founded* till February, 1755;[4] and Tumeremo is known to have been in existence for some years before its *founding* in 1788. The *founding* was, in fact, only the formal opening after the equipment with church regalia by the Spanish Governor at the cost of the State; and friction between the friars and civic authorities might cause great delay in this. Governor Marmion expressly complained that he was not promptly informed regarding the new missions.[5]

3. For 1748 the British Case makes this statement:

"In 1748 the Mission of Nuestra Señora del Monseratti del "Miamo was founded near the River Miamo, a tributary of the "Yuruari. This but slightly advanced the frontier of the "Missions, which were still many leagues from the Cuyuni."[6]

This is to ignore altogether, not only Curumo, but also Tupuquen, far down the Yuruari, which latter was founded in this same year.[7]

4, 5 and 6. Referring to the year 1770 the British Case mentions, as frontier missions, Miamo, Carapo, Yuruari, Divina Pastora, and Avechica, and then adds:

"These documents show beyond question that Missions had not come within a long distance of the Cuyuni.[8]

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[1] Venezuelan Counter-Case, Vol. 2, pp. 194–195.
[2] Venezuelan Case, Vol. 3, p. 378.
[3] Venezuelan Case, Vol. 3, pp. 371, 378.
[4] Venezuelan Case, Vol. 3, p. 426.
[5] Blue Book, Venezuela, No. 3 (1896), pp. 335–336.
[6] British Case, p. 40, lines 8–13.
[7] Venezuelan Case, Vol. 3, p. 378.
[8] British Case, p. 46, lines 39–41.

Spanish Missions

In line with this, and therefore to be considered with it, are the following statements of the British case:

"The foregoing facts show that between the years 1750 and "1770, the Missions had not extended nearer to the Cuyuni than "the junction of the Miamo and the Yuruari."[1]

And again:

"It appears from the journal of Antonio Lopez de la Puente, "who in 1788 ascended the Curumo from the Cuyuni, that the "River Mutanambo enters the Curumo just above the point upon "the latter river where the forest of the Cuyuni Valley gives "place to the savannah, and that a league higher up he came to "what is called specifically 'the Savannahs of the Curumo.' This "point was reached by De la Puente after eight days' journey, "partly by water, and partly by land, from the mouth of the "Curumo. In the map by Cruz Cano y Olmedilla the site of "Mutanambo is marked upon the banks of the river of that name "some distance above its confluence with the Curumo, and upon "the Curumo itself at a corresponding distance above the mouth "of the Mutanambo there is marked the site of a Mission to "which no name seems given, but which may fairly be supposed "to be that of Curumo.

"Upon the whole the evidence as to the situation of these "two Missions is conclusive against their having occupied any "such positions as those which are marked on the Maps of "Storm van's Gravesande. In estimating the value of the evi- "dence there are two other considerations which must not be lost "sight of. In the first place, it is in the highest degree im- "probable that either of these Missions was beyond the Savan- "nah region. All the other Missions were certainly situated in "the savannah, to which alone their organization and economy "seem to have been suited. In the second place, the journal of "De la Puente distinctly suggests that the lower Curumo was "before his time unknown to the Spaniards. He gives it out as "a discovery of his own that the channel of the river was "navigable throughout its whole course. He himself made the "mistake of abandoning his canoes and marching through the "forest, where he suffered greatly through the want of pro- "visions.[2]

[1] British Case, p. 47, lines 9–12.

[2] British Case, pp. 41–42, lines 49–50, 1–40.

Spanish Missions.

These various statements ignore altogether the Missions Cunuri, Tupuquen, Mutanambo and Curumo, which were destroyed in 1750[1], to say nothing of Cavallapi, or of the Mission on the Cuyuni itself at the mouth of the Curumo river opposite the site later occupied by the Curumo Fort, or of the other missions in Wenamu, Queribura and Mawakken evidenced by Dutch records.[2]

The statement regarding De la Puente's expedition and the location of Curumo mission ignores entirely the fact that in 1788 the Capuchin prefect expressly declared that "the site of Curumo was less distant from the Cuyuni"[3] than was Tumeremo's; and it ignores also the fact that missions are shown lower down the Curumo by Surville's map. The argument implied by what is said about the location of the savannas would hold also against Tumeremo, if it would hold at all.[4] As to De la Puente's having made a "discovery of his own that the channel of the river was navigable throughout its whole course," the discovery may indeed have been new to him, but it could hardly have been new to others, for long before his expedition, which was some thirty years after the abandonment of the Mission of Curumo, the Capuchin prefect, Fray Benito de la Garriga, had called official attention to the use of the stream by smugglers and slave traders, and Fray Caulin had made much of this in his history of Guayana.[5]

7. The concluding statement under this head is very sweeping. It is that

"The Mission stations south of the Orinoco, in the neighbour-
"hood of the Yuruari never extended further to the east than
"Cura and Tumeremo."[6]

[1] Venezuelan Counter-Case, Vol. 2, p. 195.
[2] U. S. Commission Report, Vol. 2, 370.
[3] Venezuelan Counter-Case, Vol. 2, p. 196.
[4] Venezuelan Counter-Case, Vol. 2, pp. 195–196.
[5] Venezuelan Counter-Case, Vol. 2, p. 197, note 4.
[6] British Case, p. 79, lines 3–6.

Spanish Missions.

Of course, this is to ignore Mutanambo and some of the others already mentioned, especially Curumo.[1]

Closely connected with the question of the missions is the question of the Curumo Fort, the facts regarding which were set forth in the Venzuelan Case, and have already several times been referred to in this Counter-Case. The existence of this fort is denied by Great Britain, although it is admitted that frequent recommendations were made to establish it.[2]

Curumo fort.

In the Appendix to the Case of Venezuela (Vol. III, p. 400), is printed a note appended to a letter of Governor Marmion of July 10, 1788. This same note was mistranslated in the British Blue Book ("Venezuela No. 3," p. 322), where the word *Curumo* appears as *Orinoco*. It is again mistranslated in the Appendix to the British Case, Vol. V, p. 63. In the Appendix to this Counter-Case is printed a photographic copy taken from the original document showing that the name is in fact *Curumo* and not *Orinoco*. Even if *Orinoco* had appeared it would have been a manifest clerical error, as the Cuyuni and Orinoco nowhere meet, and as the "new town" which was projected was in fact the one at the junction of the Cuyuni and Curumo rivers. The British Case, in a footnote on page 58, says:

"The copy of Marmion's Report of 1788, from which these "extracts are taken, is stated to have been made by him in 1793. "*Vide* App. V, p. 67."

This statement of the British Case is most important, for it serves to fix the date of the note above quoted and thus to confirm what has before been maintained by Venezuela, that the Curumo Fort was in existence as early at least as 1793. It was the ruins of this very

[1] Venezuelan Counter-Case, Vol. 2, p. 195.
[2] British Case, p. 47, lines 31–36; p. 59, lines 28–32.

fort, on the *south* side of the Cuyuni river, that Schomburgk saw when he visited the spot in 1843. Curumo fort.

While, however, all of these facts respecting the location and dates of these missions and of this Curumo Fort are of interest, they are, after all, questions of mere detail. The incorrectness of the British statements regarding them is beyond dispute, and the accuracy of Venezuela's counter-statements rests upon impregnable foundations; but, even so, it can make no difference at all whether Alta Gracia or Cupapuy was the easternmost mission in 1734, or whether the Curumo mission was founded before, during or after 1746, or whether Tumeremo or any other mission was the one nearest the Cuyuni at some other date. Even the Curumo Fort itself is after all nothing more than cumulative evidence of a well-known and at that time well recognized fact, namely, that Spain was mistress of the whole interior. Venezuela does not need for one moment to rest her title to that interior upon the location of her missions or of her forts. That interior was Spain's before ever the first Dutchman rested his eyes on American shores; it was Spain's when, in 1615, Spaniards tilled the soil of the Essequibo for the "Governor of Trinidad and Orinoco;" it was Spain's when, a century and a half later, she expelled the Dutch and their Carib allies from the Cuyuni; it was Spain's when the Dutch finally conveyed to the British "the establishments of Demerara, Essequibo and Berbice." That interior was discovered by Spain; it was settled by Spain; it was neither discovered nor at any time settled by any other nation; and the whole of it was always under exclusive Spanish control. Under such circumstances one mission or one fort more or less can make no difference at all. It was not necessary that every square foot of ground should be physically Basis of Spanish title.

Basis of Spanish title.

occupied by Spain; her title was not that of an intruder upon another's property; it was that of a discoverer and first settler. Therefore it is that the admissions of Great Britain, even if the evidence itself went no further, are counted as sufficient by Venezuela; for, while denying mere details, she admits the main fact. Whether or not Spanish forts and Spanish missions had ever reached or crossed the banks of the Cuyuni, Spanish forts and Spanish missions were erected and maintained in the Cuyuni-Mazaruni Basin, and Dutch intruders were expelled therefrom. This was the history, the admitted history, of that region from the earliest days until the British gold expeditions of 1880—for over two centuries and a half. It is upon that broad fact that Venezuela rests.

V.—POLITICAL CONTROL.

Introduction.

The third chapter of the British Case, entitled *Political Control,* might almost be regarded as a plea in confession and avoidance. The necessity for it on the part of Great Britain constitutes an admission that the facts of occupation are against her.

It will be the purpose of the present chapter to point out how completely the attempt to prove this Political Control fails to supply the need which is thus acknowledged to exist.

The chapter to be examined is divided into three sections, entitled respectively *Dutch Administration, British Administration* and *Area Controlled.*

The theory upon which this British claim of *Political Control,* appears to be based, is sufficiently disclosed by the first of these sections. This theory will be considered first, and afterwards the facts alleged in its support will be examined in the order presented by the British Case.

BRITISH THEORY OF POLITICAL CONTROL.

British theory as disclosed by British Case.

The British theory of political control, so far as is disclosed by the British Case, rests upon certain general propositions which may be summarized under the following heads:

1. Dutch trade in Guiana, its nature, regulation, extent and results.
2. Dutch control of timber cutting.
3. Dutch maintenance of the peace.
4. Dutch jurisdiction over Dutch settlers.
5. Dutch protection of and jurisdiction over Indians.

British theory as disclosed by British Case.

That the propositions referred to may be presented, as far as possible, in the words of the British Case, the following extracts have been selected as expressive of Great Britain's position with respect to each of these subjects:

Nature of Dutch trade.

1. As to the nature, regulation, extent and results of Dutch trade:

"The existence in any region of trade carried on by the "Dutch *systematically* and *not on sufferance* excludes the idea "of Spanish political control, while it naturally, and in fact, "*led to* political control by the Dutch. It is from this point of "view that it is important to see over what region the Dutch "traded *systematically* and *as of right*."[1]

Again,

"The trade of the Dutch with the Indians *led* naturally to "control by the Company of the territory in which this trade "was carried on.

"The Company, under their charter, had a right to a mon- "opoly of trade. By sailing Regulations, issued from 1632 to "1648, they reserved for their own ships the right of visiting the "coast to the east of the Orinoco."[2]

Dutch timber cutting.

2. As to Dutch control of timber cutting:

"Closely connected with trade, but involving still more direct "exercise of dominion over the country, is the assertion by the "Dutch of the right to control the cutting of timber."[3]

Dutch "*maintenance of the peace.*"

3. As to maintenance of the Peace:

"As early as the seventeenth century and thenceforward, the "Company found it necessary, not only to regulate trade itself, "but also to exercise control of a political nature over the dis- "trict in which trade was carried on. It was imperative that "the Indians with whom the trade was carried on should be pre- "vented from making war upon one another, and should be pro- "tected from outrage at the hands of Europeans."[4]

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[1] British Case, p. 80, lines 17–24.
[2] British Case, pp. 82–83, lines 47–50, 1–4.
[3] British Case, p. 83, lines 31–34.
[4] British Case, p. 84, lines 41–49.

4. As to Dutch jurisdiction over Dutch settlers: Dutch jurisdiction over settlers.

"The necessity of protecting the Indians from strangers and "from one another gave rise to the exercise of regular jurisdic- "tion by judicial Tribunals, which the Indians themselves be- "came ready to invoke."[1]

5. As to Dutch protection of and jurisdiction over Indians: Dutch jurisdiction over Indians.

"The Company was obliged in very early times to interfere "to protect the natives from the whites."[2]

And,

"While thus exercising criminal jurisdiction over its own set- "tlers on complaint of the Indians, the Court did not hesitate "to deal with crimes committed by the Indians themselves."[3]

Again,

"It was of course essential for the maintenance of police "and justice that the Indian Chiefs should be induced to support "the Dutch Administration, and marks of distinction conferred "on them by the Commandeur became as time went on tokens "that the Chiefs were recognized by the Dutch Government as "men having tribal authority."[4]

And again,

"The Dutch considered the Indians of Guiana as their sub- "jects, and the Indians, on their part, looked to the Dutch "Government in the Colony for protection against any ill-treat- "ment at the hands of the Spaniards."[5]

Many of the extracts which have been given are statements of fact rather than propositions regarding "political control"; but, even so, they disclose with considerable accuracy the grounds upon which Great Britain bases her claims to control.

It will thus be seen that trade is made the foundation of the whole fabric. It is admitted that trade itself British theory as disclosed by British Case

[1] British Case, p. 85, lines 37–41.
[2] British Case, p. 85, lines 18–20.
[3] British Case, p. 86, lines 14–17.
[4] British Case, p. 90, lines 7–14.
[5] British Case, p. 97, lines 23–27.

British theory as di closed by British Case.

did not constitute control, but it is claimed that Dutch trade in the disputed territory *led* to that control. It is admitted that to produce such a result the trade in question must be shown to have been carried on "*systematically* and *as of right*"; "*systematically* and *not on sufferance*"; and the allegations regarding charter rights and "sailing regulations" constitute a recognition of the further qualification, that the trade must also be shown to have been a *monopoly*.

The *nature* of the control itself, to which this supposed trade is said to have led, is undefined except that, control of timber cutting, maintenance of the peace, and jurisdiction over both Dutch settlers and Indians, are given as instances of its exercise. It is fair to assume that if *trade*, which merely *led* to control, must be *systematic, as of right, not on sufferance* and *exclusive*, so also must the resulting *control* partake of each of these qualifications. Upon Great Britain's own statement of her case, therefore, she must prove that the Dutch actually exercised jurisdiction over the whole of the disputed territory; and that that exercise was "*systematic*," "*as of right*", "*not on sufferance*" and "*exclusive*." It is safe to say that neither the specific acts which she alleges in her Case nor the evidence which she offers in her Appendices support a single one of these propositions.

A brief examination of the three sections of Chapter III of the British Case will suffice to show the correctness of this statement.

DUTCH ADMINISTRATION.

Following the heads above set forth, the subject of Dutch *trade* will be first considered.

1. Dutch Trade.

Dutch trade and the Treaty of Münster.

The Treaty of Münster, as pointed out by the British Case itself[1], forbade Dutch trade to Spanish territory. In preceding chapters it has been shown that at the date of that Treaty all territory west of the Essequibo was Spanish. Dutch trade to that territory was therefore in violation of the Treaty of Münster and could not be carried on "*as of right.*" Dutch trade *in the disputed territory* was something which began *after* 1648, and which could therefore receive no sanction from a treaty of that date. The earliest specific instances of such trade which the British Case has ventured to allege are for 1673[1] in the Barima and for 1680 in the interior.[2]

Charter and Sailing Regulations.

Possibly to supply some basis for a claim of right to trade, and avowedly as proof of territorial limits and monopoly, the British Case makes repeated appeals to the Charter of the Dutch West India Company and to certain "Sailing Regulations." The following are the passages in which these appeals are made:

"The trade of the Dutch with the Indians led naturally to "control by the Company of the territory in which this trade was "carried on.

"The Company, under their Charter, had a right to a mon- "opoly of trade. By sailing Regulations, issued from 1632 to "1648, they reserved for their own ships the right of visiting the "coast to the east of the Orinoco."[3]

Also:

"On the 10th August in the same year [1648] the States-General "again issued trading regulations more specific than any which "had been previously published. By the first Article of these "regulations unchartered vessels were forbidden to trade on the "Wild Coast, and the mouth of the Orinoco was again made the "point at which the liberty to sail and trade granted to vessels

[1] British Case, p. 80.
[2] British Case, p. 81.
[3] British Case, pp. 82–83, lines 47–50, 1–4.

Charter and Sailing Regulations.

"other than those belonging to the Chartered Company was to "commence :—that is to say, the whole of the coast between the "Orinoco and the Amazon was treated as belonging to the West "India Company." [1]

And again :

"In 1674 a new Chartered Company was formed with the "same rights and limits as those possessed by the former Dutch "Company." [2]

The fallacy of each of these statements has been fully exposed by Professor Burr in his report to the United States Commission.

The States-General of the Netherlands, by the charter which they granted to the Dutch West India Company in 1621, granted to that Company only such monopoly of trade as it was in their power to grant, to wit, a monopoly against other Dutchmen, not a monopoly against the world. The territorial limits of that monopoly were no less than the whole of North and South America and a good part of Africa. It will hardly be contended that the States-General claimed to control the trade of those continents ; much less can it be maintained, as intimated by the British Case, that the Company was, by virtue of the charter, vested with a monopoly of trade as against other nations. That intimation by the British Case is clear, because only an international monopoly could possibly be made the basis of an international title ; and because, while alleging a monopoly as such basis, the British Case appeals to the Charter, and to it alone, in proof of it.

The so-called "Sailing Regulations" of 1632, and others which followed, when they are brought under the light of investigation, vanish as quickly as the Charter. They were not regulations of the Company for its own

[1] British Case, pp. 26–27, lines 43–47, 1–7.
[2] British Case, p. 28, lines 46–48.

trade, but regulations of the States-General forbidding *Dutch war ships* from visiting the coast of Guiana. It is unnecessary to add that they could not and did not prohibit the vessels of other nations from going there. The trading regulations of 1648, which were drawn up prior to the Treaty of Münster, though promulgated a little later, threw open to free trade the Spanish coast of the Caribbean and the Gulf, and the Orinoco served merely as a point of departure for these, there being still reserved to the Company, not Guiana only, but the entire remaining coast of America and that of West Africa.

Sailing Regulations.

The British Case concludes that this Regulation treated the whole coast between the Orinoco and the Amazon as belonging to the West India Company; but, as Professor Burr very pertinently says, "were this a territorial claim it would imply Dutch ownership of all America and Africa." [1]

The new Charter of 1674 is also appealed to by the British Case, it being alleged that the new company of that year "was formed with the same rights and *limits* as those possessed by the former Dutch Company."[2]

Charter of 1674.

This is a grave misstatement. The limits of the Company's monopoly were cut down to a small part of "those possessed by the former Dutch Company." On the mainland of America *nothing* was granted except *Essequibo* and *Pomeroon;* and that is why these were specified.[3]

So far as the new Charter showed any limits at all between the Spanish and the Dutch possessions in Guiana, it showed that the Dutch were limited to "Essequibo and

[1] Venezuelan Counter-Case, vol. 2, p. 23.

[2] British Case, p. 28, lines 46–48.

[3] Venezuelan Counter-Case, vol. 2, p. 19, especially foot note: also British Case, App. I, pp. 173–5.

Charter of 1674.

Pomeroon;" and if the new Company traded beyond these it did so without authority from the Dutch Government.

So much for the monopoly and territorial limits of Dutch trade on *paper*. Was it in *fact* either *systematic*, or *exclusive* or *as of right* or *not on sufferance?*

Was it systematic?

Dutch coast trade.

In support of this, the British Case makes the following allegations with regard to the *coast* trade:

1. That "in 1673 the Dutch were trading to Barima for crab oil."[1] In proof of this it cites the following instance of a single boat going there:

"Peace had been made with the Caribs in Barima and the "Arawaks, and they had intercourse with each other, and *he was* "*going to send a boat after carap oil,* intending in the meanwhile "to make trial of the linseed oil."[2]

2. That between 1673 and 1684 "there are several other references in the Dutch Records to trade carried on between Essequibo and this district."[3]

In proof of this it cites the following instances of Dutch trade:

(a) With the *Spaniards* of Orinoco in 1677.[4]

(b) With the *Spaniards* of Orinoco in 1678.[5]

(c) With the *Spaniards* of Orinoco in 1679.[6]

(d) The proposed "shelter" at Barima in 1683, which was disapproved of by the Company.[7]

(e) The following:

"Just previously Captain Gabriel Bishop, with his barges "*from Surinam and Berbice,* coming into the Barima in "order to trade there in annatto, letter-wood, etc., being sur-

[1] British Case, p. 80, lines 34–5.
[2] British Case, App. I, p. 173.
[3] British Case, p. 80, line 36, p. 81, lines 1–2.
[4] British Case, App. I, p. 181.
[5] British Case, App. I, p. 181.
[6] British Case, App. I, p. 182.
[7] British Case, App. I, pp. 185–6; also Venezuelan Case, Vol. 2, pp. 48–51; also Venezuelan Counter-Case, Vol. 2, pp. 118–122.

" prised and overtaken by the Caribs aforesaid, he, with fifteen " of his men, was slain, and the barque was cut to pieces and " sunk to the bottom."[1] Dutch coast trade.

3. That in 1726 the postholder of Wakepo was instructed "*to endeavour* to obtain them (slaves and balsam) in the Aguirre"[2] in case he was refused permission by the Spaniards to obtain them from "up the Orinoco." The Aguirre is beyond Great Britain's extreme claim and is confessedly Venezuelan territory.

4. That "in 1730 a Dutch trader is mentioned in the *Aguirre*."[3]

5. That "in 1735, 1754, 1757 and 1760 Dutch traders were in the Barima."[4]

The incidents referred to in this last allegation are:

(a) That of one Couderas who went to Barima to get slaves for some one else, and who having gotten them ran away "with some Frenchmen from Martinique, *who likewise traded there*."[5]

(b) That of some "*Surinam* wanderers" who went from the Barima to the Waini.[6]

(c) That mentioned in the following extract:

" Complaints having been repeatedly made *by the Commandant* " *of Orinoco* concerning the evil conduct in Barima of the traders, " or wanderers, *as well from Surinam* as from here, I have written " circumstantially to the *ad interim* Governor there, Mr. I. Nep- " vew, whose reply is awaited daily."[7]

(d) That of five Dutchmen from *Surinam* and Essequibo, who were there gathering slaves, and who were forthwith expelled by the Spanish officials.[8]

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[1] British Case, App. I, p. 187.
[2] British Case, p. 81, lines 8–9.
[3] British Case, p. 81, lines 10–11.
[4] British Case, p. 81, lines 11–12.
[5] British Case, App. II, pp. 20–21.
[6] British Case, App. II, p. 100.
[7] British Case, App. II, pp. 131–2.
[8] British Case, App. II, p. 187.

Dutch coast trade.

6. That "in 1755, and again in 1758, it was reported to the Spaniards that Dutch and Carib traders were in the habit of passing by the Rivers Aguirre, Barima, and Waini to the territory upon the confines of the Spanish Missions."[1]

The citations offered in proof of these irrelevant facts are two:

(a) The first is a document which treats of the movement of the Caribs, and which incidentally mentions two Dutchmen, one *Solomon Percico* said to have gone by the route above mentioned "in order to return to Essequibo" and "the Dutch fugitive" *Nicolas Colart* who "made his escape" that way.[2]

(b) The second document refers exclusively to slave traders, whose movements, it says, extended to the *Orinoco*, the *Aguirre* and the *Carapo*—all places which were confessedly Spanish—and of whom it says that "they *have no fixed time for their journeys*, for they come and go whenever they choose."[3]

7. That "in 1763 Governor Diguja reported that there were no foreigners navigating the Orinoco above Guyana, though below they did so freely,"[4]

What Governor Diguja *did* say is this:

"There are no foreigners navigating the Orinoco, that is, "above Guayana, for at its mouth and up to the neighborhood "of the said fortress they do so freely, *but without being able to* "*land in the said provinces, nor do any more trade than the fort-*" *ress allows,* and within the time explained in my note 13 of "my Book of Notes, *and without the toleration therein stated,* "*which is absolutely necessary, they can do nothing.*"[5]

[1] British Case, p. 81, lines 12–17.
[2] British Case, App. II, p. 110.
[3] British Case, App. II, p, 148.
[4] British Case, p. 81, lines 18–20.
[5] British Case, App. III, p. 35.

This, by the way, hardly looks as though, even when the Dutch did trade there, they did so "*as of right.*" Dutch coast trade.

8. That it was reported in 1769 that a Dutchman had been domiciled for more than eight years in the *Aguirre* (beyond Great Britain's extreme claim and in confessedly Spanish territory) buying slaves from the Caribs.[1]

9. That the Caribs and Arawaks from Barima "served as paddlers and messengers to the Dutch *in* Essequibo."[2]

If from these various incidents, which are all that are given by Great Britain to prove *systematic* trading, on the coast, there be excluded all references to Dutch trading or to the presence of Dutchmen (not traders) in territory confessedly Spanish and beyond Great Britain's present extreme claim, also all references to trading directly with Spaniards, and also all references to the *Surinam* Dutch—whose rights are not represented to-day by Great Britain—the following are all that remain:

1. A boat sent to Barima in 1673 for carap-oil.

2. A proposed "shelter" at Barima in 1683 which was disapproved of by the Company.

3. Couderas, who ran away with some slaves.

4. *Surinam* and Essequibo "wanderers," against whose evil conduct *in Barima* the *Spanish* complained.

5. Five *Surinam* and Essequibo Dutchmen who were expelled from Barima by the Spaniards.

These are the incidents which, covering a period of more than two centuries, are alleged and relied on by Great Britain to prove a *systematic* trade which *led* to political control.

[1] British Case, p. 81, lines 21–24.
[2] British Case, p. 81, lines 30–31.

Dutch coast trade.

It seems hardly necessary to go further and ask whether, in addition to being *systematic*, that trade was also "*exclusive*," or whether it was carried on "*as of right*," and "*not on sufferance.*"

The very extracts already cited are quite enough to negative each of these propositions, though additional proof might be indefinitely multiplied. The trade was certainly not *exclusive*, for the *Surinam* Dutch, the French, the English, the Spaniards themselves shared in it, and the Dutch Commandeur in speaking of it said: "I am of opinion that the Honourable Company has the right to trade and traffic there in an open river as much as other private persons."[1]

It was certainly not "*as of right*," for it was at times prevented by Spain, and its prevention was acquiesced in by the Dutch. It was certainly "*on sufferance*," for, even when carried on, it was only with the connivance or by the express permission of the Spaniards.

Dutch interior trade.

The facts as to the *interior* trade are quite as conclusive against the British contention. The following are the allegations upon which a claim to *systematic* and *exclusive* trading in that region is founded:

1. That between 1680 and 1686,

"Mention is continually made of the disturbance caused to "this trade (which it is implied was well established) by native "wars in those rivers and by the inroads of the French."[2]

The documents cited to prove the "disturbance" caused by the Indian wars do indeed tend to show that some Dutch trade had theretofore existed somewhere on the Cuyuni, Essequibo and Mazaruni rivers; just where does not appear, but the fact that the three rivers are mentioned together as affected at the same time by these wars would seem to indicate that the disturbance must

[1] British Case, App. I, p. 186.
[2] British Case, p. 81, lines 37-40.

Dutch interior trade.

have been somewhere near their common junction and probably, therefore, below their lowest falls. But while these documents do indeed tend to show in a vague and indefinite way the previous existence of some sort of trade, they also prove conclusively that the Dutch were powerless to carry it on in the face of Indian wars; for, whatever it may have been before those wars, their coming put a stop to it. The following are the extracts cited by the British case:

"The trade in hammocks and letter-wood has this year not "had the desired success, on account of the war between those "(*i. e.* the Indians) of Cuyuni, Essequibo, and Mazaruni, and "the Accoways who live up country; and we have repeatedly, "with many but fruitless arguments, tried to *persuade* the high- "est Chief to make peace with the aforesaid nation, to that end "*offering* axes and other wares. *They even threatened*, if we "would not let them continue the war, *to depart* in great num- "bers *to Barima* and elsewhere. These being the most import- "ant traders in dye *I was*, to my sorrow, *compelled to desist;* "and hereby the River Cuyuni, our provision Chamber, is "closed."[1]

And,

"By reason of the *Accoway war in Cuyuni*, of which you have "heard, the trade in hammocks, especially in new ones, has re- "sulted badly, for *no one dares to trust himself among that faith-* "*less tribe*, so that no more than six common ones could be "sent."[2]

But, however these extracts may serve to disprove the British contention regarding the freedom of Dutch trade (and incidentally also that other contention, to be considered later, that the Dutch *controlled* the Indians), the other extracts regarding the "inroads of the French" leave the theory of *exclusiveness* and *monopoly* nothing to stand on. It was not of French soldiers but of

[1] British Case, App. I, p. 183.
[2] British Case, App. I, p. 184.

Dutch interior trade.

French *traders* that the Dutch complained. The cause of the *disturbance* to the Dutch trade was that,

"The French in the Barima come and fetch them (hammocks) even as far as up in the Cuyuni."[1]

And that,

"All that he has been able to obtain is a little balsam oil and "hammocks, because the French are making expeditions through "the country up there in order to buy up everything."[2]

2. That in 1703 there was a trading post in the Savannah, high up on the Cuyuni. The facts as to this post have been very fully stated by Venezuela in her Case.[3] If the post was ever established, which is very doubtful, it lasted for but a few weeks: its purpose was to trade in horses, and when the Spaniards prohibited that trade it came to an end.

3. That "in 1686 there is mentioned an annatto store in the Massaruni, and in 1699 there is notice of a similar store on the Cuyuni."[4]

What may be meant by an annatto "store" is nowhere disclosed, but the location of the "store" could not have been very far away, for the mention of it here is in connection with a proposition made by the Dutch Commandeur to the Indians,

"that if they had war in their minds, they should make war "*far away* in Mazaruni and moreover inland against their com- "mon enemy, not against their and our friends *who dwelt close* "*by the Caribs and the annatto store,* who had always been their "friends."[5]

The reference to a "dye store" in the Cuyuni is so vague as to leave one entirely in the dark as to its character, though the connection in which it is mentioned

[1] British Case, App. I, p. 188.
[2] British Case, App. I, p. 201.
[3] Venezuelan Case, Vol. 2, p. 96.
[4] British Case, p. 81, lines 47-49.
[5] British Case, App. I, p. 202.

furnishes ground for believing that it too was "close by," for it is referred to as a starting point for traders about to go up the Cuyuni to buy horses.[1]

Dutch interior trade.

4. That in 1758 "Dutch merchants" resided in Tucupo, Capi and Paraman.[2] The only one of these places in the Cuyuni-Mazaruni basin was Tucupo, a tributary of the Curumo. It will be remembered that 1758 was the year in which the Spaniards destroyed the first regular trading post that the Dutch attempted to establish on the Cuyuni. The Dutch postholder was captured and kept a prisoner by the Spaniards against the unavailing remonstrances of the Dutch, and the Dutch themselves were so thoroughly scared that not until eight years had passed did they venture to try another post lower down the river and nearer their own settlements. It seems most unlikely, therefore, that any "Dutch *merchants*" should have been "*residing*" in Tucupo at that time; and indeed the citation given to support the allegation warrants nothing more than the statement that Dutch slave traders or slave catchers—possibly some of those very Dutchmen who disguised themselves as Indians—went at times to that river, just as they went to Paragua and to other places confessedly Spanish.

5. That "in 1769 the Dutch were also settled very high up the Cuyuni, close to the mouth of the Curumo."[3] The authority for this statement is a letter of Fray Benito de la Garriga dated in 1769. The reference which he makes, to "Dutchmen[4] who had settled very high up the Cuyuni, close to the mouth of the Curumo," is while speaking of the year 1758. Profes-

[1] British Case, App. I, p. 216.

[2] British Case, p. 82, lines 11–13.

[3] British Case, p. 82, lines 13–15.

[4] The translation of this passage as given in the Appendix to the British Case, Vol. iv, p. 23, is incorrect; the Spanish word *Olandeses*, which means *Dutchmen* being there translated *Dutch families*.

Dutch interior trade.

sor Burr in reviewing the events of that year considered this letter in connection with much other evidence bearing on the subject, and his conclusion that this reference of Fray Benito was to slave catchers who were supposed to be sojourning near the Curumo, is doubtless correct. One thing is very certain, and that is that even slave catchers, if they were really there, cleared out very quickly, for the Spanish expedition of 1758 failed to find them.[1]

In résumé the grounds upon which Great Britain bases a claim to a *systematic* and *exclusive* trade in the Cuyuni-Mazaruni valley are the following:

1. That about 1680 the Indians, because the Dutch were unable to control them, put a stop to a trade theretofore supposed to exist.

2. That in 1683–86 the French traders were successfully competing with the Dutch traders in the Cuyuni.

3. That there was an "annatto store" somewhere in the Mazaruni in 1686, and a "dye store" somewhere in the Cuyuni in 1699.

4. That for a few weeks in 1703 there was a post somewhere in the Pariacot Savannah for trading in horses, a trade which lasted during the pleasure of the Spaniards, and which came to an end when the Spaniards prohibited it.

5. That in 1758 some Dutch slave traders managed to be about the Tucupo river notwithstanding the destruction of the Dutch post on the Cuyuni in that year and the arrest of the Dutch postholder.

6. That the same year other slave traders, whom the Spanish expedition failed to find, were sojourning near the mouth of the Curumo.

[1] Venezuelan Counter-Case, Vol. 2, pp. 163–164.

This is the Dutch trade which is stated to have *led* to Dutch political control of the interior.

Dutch interior trade.

Before passing to the consideration of the general facts upon which this subsequent alleged *political* control is supposed to be based, the British Case, in proof of Dutch control of *trade*, cites certain other facts which are full of significance, and which therefore merit attention.

Dutch control of trade.

It is stated by the British Case that,

"Permission to pass the (Wakepo) Post was only given to those "who had passports.[1]

Dutch passes.

Also that,

"In 1719, a form of pass was settled which bound the bearer "not to go beyond the Spanish fort on the Orinoco without per- "mission of the Governor there.[2]

And again that,

"The pass system was applied to Indians as well as colonists "and slaves; thus a pass was issued to a Carib Chief permitting "him to go to Barima, which pass was given up to the Comman- "deur of Essequibo by the Chief on his return.[3]

Also that,

"A similar pass was issued by the Commandeur of Demerara "permitting a Carib Chief of Essequibo, to go to *Berbice* and "back, and another by the Commandeur of Essequibo permitting "an Indian to go to the coast of that Colony, and to pass the post "of Moruka."[4]

The significance of this pass system seems to Venezuela to be quite different from that which is attributed to it by Great Britain. It will be noticed in the allegations above quoted that a pass was required to go from Essequibo to Berbice. So in the following passage referred to by the British Case:

"Both from English captains leaving the Essequibo (formerly

[1]British Case, p. 87, lines 41–2.
[2]British Case, p. 87, lines 46–49.
[3]British Case, p. 88, lines 8–12.
[4]British Case, p. 88, lines 12–19.

Dutch passes.

"the Colony) in their barques or vessels and from private indi-
"viduals the Governor receives for a pass 7 guilder 10 st."[1]

It is plain that the purpose of the pass was to allow the bearer to *leave the colony.*

The form of pass which is alluded to as having been adopted in 1719 confirms this, for it says:

"We, Pieter van der Heyden Rezen, Commandeur of the
"Colony and adjacent Rivers of Essequibo, in the name of the
"Directors of the General Chartered West India Company, in
"the Assembly of Ten,

"Do give full permission to one N., a free inhabitant of this
"Colony, *to depart from this Colony* with his canoe and accom-
"panying men to Rio Orinoco, and from there again hither."[2]

This *declared* purpose of passes proves that when they were presented at a post it was because the bearer was *at that point* leaving the recognized limits of the Colony: this conclusion is confirmed by the fact that the most important object of the posts was to prevent runaway slaves from going beyond them and thus escaping from the Colony. That in the granting of passes to go beyond the Moruca post the Barima was not regarded as a part of the Essequibo colony is shown by the letter of the Dutch Governor Storm van s' Gravesande to the Governor of Surinam, dated August 18, 1764, wherein he says:

"Whilst on this subject I take the liberty to inform your
"Excellency that mentioning the *River Barima* in those passes
"causes complaints from the Spaniards, who, maintaining that
"the river belongs to them, *in which I believe they are right,*
"some of these passes have already been sent to the Court of
"Spain."[3]

Posts as frontiers.

Other evidence that the posts were regarded as the

[1]British Case, App. IV, p. 123.
[2]British Case, App. I, p. 251.
[3]British Case, App. III, p. 114.

frontiers of the colony is furnished by the British Case itself when it says that, Posts as frontiers.

"In 1790 the Postholders are described as 'employés' on the "frontier to foster the good understanding with the Indians;"[1]

and that the Moruca post was itself regarded as such frontier on the northwest is evidenced by the further statement, that,

"In 1737 the Commandeur reported that, though the trade at "Wakepo and Moruka was no longer remunerative, the Post "must, nevertheless, be kept up because it was established *for the "maintenance of the Company's frontiers* stretching *towards* the "Orinoco."[2]

Of equal significance in this connection is that projected but never completed road of Ignace Courthial through the Cuyuni forests by which it was proposed to bring cattle and horses to the Essequibo colony, and to charge an import duty upon them *payable at a post* to be established on the road itself.[3]

So it appears that these various facts alleged by Great Britain to prove a control beyond the posts, are facts which prove just the reverse: those posts were regarded and treated as posts on the frontier marking the limits of the Colony itself. Of course it should be added that the treatment of the Moruca, or the Wakepo or the Pomeroon as the actual limit of the Dutch colony, whilst binding upon the Dutch and upon their successors the British, cannot operate to bar the rights of Spain or of Venezuela as Spain's successor. Spain's claim, and Venezuela's, has always consistently gone all the way to the Essequibo; and if the district between the Moruca and the Essequibo seems to have been more effectually squatted upon by the Dutch and British Spain's claim.

[1] British Case, p. 89, lines 34–36.
[2] British Case, p. 89, lines 25–30.
[3] British Case, App. II, p. 44.

Spain's claim.

than the region to the west of the Moruca, none the less was that squatting a usurpation of Spanish and Venezuelan territory and a violation of treaty stipulations. So also with regard to the upper Essequibo: little attention has been paid to that region in this Counter-Case, because the only facts brought forward to defeat the title which vested in Spain when she discovered and settled the Essequibo are allegations of trade and control; and these have even less foundation than similar allegations respecting the Barima-Waini region and the Cuyuni-Mazaruni basin.

Evidences of Dutch control.

But to pass to the evidence of Dutch control.

The Dutch control which *grew out of this trade* is claimed to be evidenced by control over timber cutting, by maintenance of the peace, and by jurisdiction over both Dutch settlers and Indians.

How far are these general allegations in keeping with the specific acts alleged in support of each, and with the evidence submitted?

2. Dutch Control of Timber Cutting.

Timber cutting.

The allegations as to this control for the coast region west of the Moruca are two only. It is stated that,

"Permission to cut timber in Waini was given in 1754, and in "1756 a similar application was entertained."[1]

And that,

"In 1766 there was a man cutting cedar-wood in Barima on "account of Mr. Knott."[2]

To these should probably be added a third, which is that,

"In 1803, the Dutch, who had resumed possession of the Colony "in 1802, proposed to make regulations for the protection of the "timber, and for making grants for lumbering in Pomeroon, "Waini, and Barima."[3]

[1] British Case, p. 84, lines 5–7.
[2] British Case, p. 84, lines 21–22.
[3] British Case, p. 84, lines 36–40.

Timber cutting.

This last allegation is much too strong for the evidence cited in its support, but under the circumstances that is a matter of little moment. The important thing to note is that, in proof of Dutch control of timber cutting during a period of two centuries, Great Britain alleges that one man got permission once to cut in Waini; that another asked for a similar permission, but evidently did not get it; that with or without permission, once during these two centuries, a Dutchman actually cut some wood in Barima; and that at the close of the two centuries there was some sort of indefinite "proposal" about protecting timber; a "proposal" which, as a matter of fact, was a mere *suggestion* by a single individual and which ended in nothing.[1] Of course it is not pretended that Spain had any knowledge of any of this Dutch "timber control."

For the interior, the allegations are also two, namely, that,

"Before 1706 the cutting of timber above the falls in Cuyuni "had become a common occurrence."[2]

And that,

"In 1735 leave was given to the Company's Director to fell "timber in Cuyuni for private building purposes."[3]

Both of these allegations could well be true without going very far to prove that the Dutch for two centuries controlled all the timber cutting in the disputed territory.

3. Dutch Maintenance of the Peace.

Maintenance of the Peace.

The next evidence of political control by the Dutch is stated in the marginal heading to a paragraph of the British Case to be *Maintenance of the Peace.* The allegation under this heading is as follows:

[1] Venezuelan Counter-Case, Vol. 3, document numbered 134.
[2] British Case, p. 83, lines 40–42.
[3] British Case, p. 84, lines 3–5.

Maintenance of the Peace.

"As early as the seventeenth century and thenceforward, the "Company found it necessary, not only to regulate trade itself, "but also to exercise control of a political nature over the district "in which trade was carried on. It was imperative that the "Indians with whom the trade was carried on should be prevented "from making war upon one another, and should be protected "from outrage at the hands of Europeans."[1]

The first instance given of the exercise of this controlling power is that,

"In 1680 and 1683, the Company's negro traders are found "*endeavoring* to put an end to a native war between the Indians "of Cuyuni, Essequibo, and Massaruni, and the Akawois, who "lived in the country above."[2]

This *endeavor* it will be remembered was a signal failure: the passage proving it has already been quoted, but may be profitably repeated: it is as follows:

"The trade in hammocks and letter-wood has this year not had "the desired success, on account of the war between those (*i. e.*, "the Indians) of Cuyuni, Essequibo, and Mazaruni, and the "Accoways who live up country; and we have repeatedly, with "many but fruitless arguments, tried to *persuade* the highest "Chief to make peace with the aforesaid nation, to that end "*offering* axes and other wares. They even threatened, if we "would not let them continue the war, to depart in great numbers "to *Barima*[3] and elsewhere. These being the most important "traders in dye, I was, to my sorrow, compelled to desist; and "hereby the River Cuyuni, our provision chamber, is closed. In "addition, we lately have been embittered by the death of Gilles, "an old negro of the Company, recently poisoned up in the "Cuyuni, as the Caribs pretended, by the Accoways. On that 'account the aforesaid old negroes have become afraid to have 'intercourse with that tribe; I shall, however, bethink me of "means for *conciliating* that tribe."[4]

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[1] British Case, p. 84, lines 41–49.
[2] British Case, p. 84, line 50; p. 85, lines 1–4.
[3] Evidently Barima was regarded as not a part of the Colony.
[4] British Case, App. I, pp. 183–4.

Maintenance of the Peace.

The second instance given to prove Dutch *Maintenance of the Peace* has little, if any, more evidence to support it. The allegation is as follows:

"In 1686, the chief Captain of the Caribs in Massaruni sent "word to the Dutch Government that disturbances had broken "out in that river, and that the supply of dye would consequently "be short. Upon this occasion also the Commandeur used his "influence to prevent a continuance of disorder."[1]

The proof cited in support of this is as follows:

"And Jacob, the Company's old negro, also reports that when "Makourawacke, with his tribe, were wishing to go to war with "the Akuwayas up in Demerara, they were then dissuaded from "the war by the Commander aforesaid, and advised to go "and salt pork above in the Mazaruni River with Jotte afore-"named, for which purpose a cask of salt was sent to him by the "Sergeant; but that if they had war in their minds, they should "make war far away in Mazaruni and moreover inland against "their common enemy, not against their and our friends who "dwelt close by the Caribs and the annatto store, who had always "been their friends. *This the aforenamed Makourawacke would "not comply with,* and this is the chief and most principal "cause of this misfortune, which now falls upon the innocent."[2]

The third instance alleged is that,

"In 1765 the Postholder of Arinda intervened and restored "peace between two tribes on the Rupununi."[3]

The document cited in proof of this contains the instructions given to the Dutch Commandant. These throw much light on the attitude of the Dutch at that time as guardians of the peace. They are given in the following paragraph:

"But in the meanwhile the Assistant of Arinda having arrived "with a written Report from the Postholder, in which he in-"forms me of this matter, I, finding that it was not so bad as "had been thought, although at bottom perfectly true, set out

[1] British Case, p. 85, lines 4–10.
[2] British Case, App. I, p. 202.
[3] British Case, p. 85, lines 11–13.

Maintenance of the Peace.

"upon my journey, leaving Commandant Bakker written instructions to send me immediate reports of any events of importance, and in case he should be compelled by the danger of the settlers up the river to send any soldiers there, to give the commanding subaltern strict orders to act simply on the defensive, and not to interfere directly or indirectly in the quarrels of the Indians, nor yet to allow himself to be induced on any account to undertake any attack. I also impressed upon the planters the desirability of remaining perfectly neutral in this war."[1]

The last and the only real instance of control given by the British Case relates to a Carib chief in Mazaruni in 1766 who had invited some Spanish Indians to come to Essequibo and there attack the Accoways. This chief, who evidently lived within or very near the Dutch Colony, was rebuked by the Dutch Commandeur for his acts. But this solitary instance of control over an Indian at the very door of the Dutch Colony can hardly support a claim that the Dutch *maintained the peace*, throughout the disputed territory for two centuries, especially as all the other evidence cited in support of the claim proves conclusively that they did not and could not maintain it, but that in spite of Dutch prayers, and Dutch bribes, the Indians continued their fighting, thereby causing the Dutch Commandeur to exclaim that,

"hereby the River Cuyuni, our provision chamber, is closed."[2]

A review of all the evidence on this subject shows that wherever any effort was made by the Dutch to keep the peace among the Indians, it was not from a sense of duty to maintain the peace of the community, as in the settlements, but to keep the tribes from war because war interfered with Dutch trade. This same motive has many times induced one of the civilized

[1] British Case, App. I, p. 120.
[2] British Case, App. I, p. 133.

nations to make representations to another nation in the interest of peace, because the trade of the first was likely to be injured by war. Efforts of that sort, so far from evidencing political control, are a confession that there is no political control at all; that advice and not force is the only right and duty. Presents and persuasions are a confession of a liberty to reject both, and the evidence submitted by Great Britain herself shows that this liberty was used by the tribes. The Dutch gave explicit instructions not to allow their officers and soldiers to interfere in the quarrels of the Indians, but to remain neutral: but neutrality and sovereignty are quite irreconcilable, as applied to the same territory or people.

Maintenance of the Peace.

4. Jurisdiction over Dutch Settlers and Indians.

Jurisdiction over both Dutch settlers and Indians is the next and final allegation in support of the claim that the Dutch exercised *political* control over the entire disputed territory.

As regards the Dutch *settlers*, the subject may be dismissed in a very few words.

Jurisdiction over Settlers.

Four cases are cited by the British Case where Dutchmen were brought to account before the regular Court of Justice of the Essequibo colony for ill-treatment of Indians. The localities where the acts are stated to have taken place are matters of no moment whatever. The action of the Dutch authorities is sufficiently explained by the fact that it was the policy of the Company to court the friendship of the Indians, that an important aid to this was proper treatment of these Indians by Dutchmen wherever they might meet, and that on various occasions when Dutchmen transgressed this rule they were reprimanded or punished. The territorial question never arose. It was always an exercise of

Jurisdiction over Settlers.

jurisdiction over Dutchmen *because they were Dutchmen*, not because they were persons transgressing Dutch laws *on Dutch territory*.

In may be added that the Dutchmen punished for offenses against the Indians were either agents of the Essequibo government, or traders licensed by them; and the reports of the cases plainly show that the offenses were not regarded as local, but as against the peace of the colony in Essequibo, in that these acts of violence put the colony in jeopardy. It is not simply that an Indian was killed or maltreated at a particular point, but it was particularly—indeed almost wholly—that the act was likely to call down Indian vengeance upon the colony. By reason of the cases which occurred in the upper Essequibo, the Director-General, feeling his inability to keep the peace there—showing the entire absence of political control—closed the river to trade, as appears in the cases of Jan Stok[1] and Maillard.[2] This remedy is a confession not only that the Dutch did not control the Indians, but that they could not control their own traders who went in there.

In line with the above it may be well to anticipate for a moment a few facts touching Dutch jurisdiction over the *Indians*—a subject which will presently be treated more fully.

The case of Maillard, just referred to, shows that the Dutch did not attempt to exercise jurisdiction over the Indians, but only over Dutchmen. In that case the Indians who did the killing of which Maillard was acquitted, were not proceeded against at all. So in the case of Marichal;[3] the Carib chief who appeared before the Court and confessed to having made the attack

[1] British Case, App. II, p. 64.
[2] British Case, App. II, p. 105.
[3] British Case, App. II, p. 123.

upon the Accoways, of which Marichal was accused—saying he had done so at the instigation of Marichal—was not proceeded against at all, though he said before the Court, "*I committed the deed.*" The Court found that Marichal had not instigated him to do the deed, acquitted the Dutch colonist and took no notice whatever of the confessed crime of the Carib chief.

Jurisdiction over Settlers.

The case of the Indian Joris, in 1783, might seem to be a case where the Dutch had taken jurisdiction to try an Indian, but it was for killing a white man. The Indian is spoken of as "formerly residing" on a plantation, and still earlier "at Fort Zeelandia."[1] The crime was committed on the creek Wackepoey, and on the river Baurom, upon a colonist, the person killed being a Dutchman; so that this case fails to show any control over the wild tribes, and indeed is probably to be classed with the cases where Dutchmen were punished because they were Dutchmen. The crime of the Indian here is punished because it was committed on a Dutchman.

Jurisdiction over Indians.

The question of Dutch jurisdiction over *Indians* will now be considered more fully. It is somewhat more complicated than the question of jurisdiction over Dutchmen, because the relations themselves between the Dutch and the Indians were more complex. A brief consideration of the subject, however, will suffice to show that, except over the Indians living in the Colony itself, or in the immediate vicinity of the posts, the Dutch authorities exercised no political control whatever; and that, even over the Indians at the posts, such control as was exercised depended largely, if not entirely, on the permission of the Indians themselves.

[1] British Case, App. V, p. 8.

Jurisdiction over Indians.

In order that the significance of the facts alleged in this connection by the British Case may be properly appreciated, a word of introduction is here necessary.

The extent of Dutch occupation has been considered and disposed of. It has been shown that it was limited to the banks of the Essequibo, and that it left the whole of the disputed territory beyond those banks untouched. Therefore it is, that the British Case has appealed to Dutch *trade*, claiming that *this* led to political control. The fact of such control it has sought to prove by acts of timber cutting and by jurisdiction exercised over Dutch "settlers." These acts and this alleged exercise of jurisdiction have been shown to be signally insufficient to prove any such control. The final line of defense is now reached. Dutch political control over the disputed territory is now to be proved by control over Indians alleged to have inhabited that territory, and so through these Indians a Dutch title to the land itself is to be made out.

If it were possible to prove, beyond the peradventure of a doubt, that the Indians had consented to accept the Dutch control and that the Dutch exercised it, Venezuela considers, and will claim, that it could form no foundation whatever for a territorial title. As to such right or title, claimed to be derived by the Dutch or British, either directly or by implication, from or through the Indian tribes, it will be contended *first*, that these tribes were wanderers, and had not even possessory titles to any defined territories; *second*, that by the law of nations and the universal practice of all European states the American tribes having distinct territorial bounds had only a possessory right to the lands occupied, and that this right they were incapable to transfer except to a nation that had already, by dis-

covery or other acts necessary to the appropriation of wild lands, obtained the ultimate title to such lands — such nation having an exclusive right to extinguish the possessory right of the tribes; *third*, that what such tribes could not do by deed or treaty of cession, much less could they do by any submission or alliance; that the prior right of Spain could not be diminished or affected by any other power by virtue of any acts or submissions of the tribes; *fourth*, that such acts and submissions of the tribes were equally ineffectual to extend the political control of the Dutch or the British.

Jurisdiction over Indians.

A final discussion of this point will be reserved for a later stage of the controversy; for the present it is sufficient to state Venezuela's attitude towards this claim of Great Britain.

While denying the efficacy of such Indian control, even if its existence could be proved, an examination of the facts alleged to prove it and of the evidence cited in support of those facts will serve to show that the claim has as little foundation in fact as it has in law.

It will readily be admitted that if a title to land is to be based upon such control of its Indian occupants, it should at least be shown that the land in question was in fact occupied by those Indians, and that such occupancy was permanent and not merely that of nomadic tribes. It appears, however, to be admitted by the British Case that the Indians in question were in fact wanderers; and no serious effort is made to prove that any particular tribe occupied any specified territory for any specified length of time.

Indians as nomadic tribes.

The following statements of the British Case are important in this connection:

"The principal Indian tribes *inhabiting the territory known as*

Indians as nomadic tribes.

"*Guiana* were the Caribs, etc., etc. * * * *What precise localities* "*this tribe* (Macusis) *occupied it is difficult to trace,* but in the "year 1833, when their numbers had become greatly reduced, "they were found at the head-waters of the Essequibo. Mention "must also be made of the Panacays, *who appear to have lived* "in the neighbourhood of the Upper Cuyuni, and of the Pariacots, "*who seem* also to have inhabited the same district."

"Of the above tribes, by far the most numerous and powerful "throughout the whole period of the Dutch occupation of "Guiana was the Carib nation. * * * in the early days of "the Colony the Caribs, surpassing as they did all other nations in "personal bravery, were the great freebooters *on all the coast* "*from the Island of Trinidad to the mouth of the Amazon.*"

"In the interior of Guiana they were found on the Upper "Essequibo, the Massaruni, the Upper Cuyuni, the Pomeroon, "and the Barima, *and they ranged at will through the forest* "*region.*"

"Next in importance to the Caribs were the Akawois. *No* "*fixed limits are indicated for the area of Akawoi settlement* in "earlier times. * * * *It is probable that this nation, like that* "*of the Caribs, was nomadic in its habits, and was to be found* "*scattered throughout the Dutch Colonies of Essequibo, Berbice* "*and Surinam.*"

"Next in importance to the Akawois, was the tribe known as "the Arawak nation, * * * The Arawaks had for many "years been united to the Dutch and incorporated in their "Colonies both in relationship and other ties. * * * *No* "*precise locality can be indicated as their usual place of abode.*"[1]

Yet these are the Indians through whom Great Britain claims a territory definite in extent and limited on the *west* by a clearly defined boundary line.

From the admissions above quoted it would seem to be more logical to conclude that if the Essequibo Dutch did in fact control these Indians, and if title could be derived from such control, the title of Great Britain today should include not only the region between the

[1] British Case, pp. 9–11.

Essequibo and the Orinoco, but at least the whole of Guiana, and possibly much more.

Indians as nomadic tribes.

The only escape from this so far reaching conclusion is had by assuming that the Dutch did not control *all* but merely *some* of these Indians. This would certainly be nearer the truth, for it is well known that the Spaniards controlled many of them, a number of the Capuchin Missions being made up of Caribs and of Accoways. But if this limitation be admitted, it still remains to be proved that this Dutch control of *some* Indians was a control of *all* who occupied the region between the Essequibo and the limit of the British claim. But here again the fact that, on Great Britain's own admission, the Caribs and the Akawois were "nomadic", and that as regards the Arawaks "no precise locality can be indicated as their usual place of abode," would seem to make such proof impossible. The fact is that no such general control was ever exercised, either with the consent of the Indians or otherwise; and even the British Case, while it contains general allegations to the contrary, itself furnishes abundant evidence to disprove such allegations. The only Indians who ever came under any sort of Dutch control were the Indians who were settled within the Colony, or who were collected about the posts. This must be evident from the following statements of the British Case:

Indians controlled near posts.

"The permission to trade with the Indians *at and near the* "*Post* gave the Postholders exceptional facilities for cultivating "friendly relations with those tribes, and for ensuring their "maintenance when established. It was their duty to maintain "order *among the Indians at the Post.*"[1]

"The provisional instructions issued in 1766 to Pierre Martyn, "the Postholder in the Upper Cuyuni, directed him to take care "that the free Indians were not molested or ill-treated, but to

[1] British Case, p. 88, lines 20–25.

Indians controlled near posts.

"endeavour, as much as possible, *to attract them to the Post, and to "protect those residing in the neighborhood.*"[1]

"The Postholder of Moruka was directed by the 5th Article "of his instructions to treat all Indians properly; to enrol, and "*take into protection about the Post*, as many of them as his means "would allow."[2]

The following extract is peculiarly significant because it is through the *Postholder* that the control is alleged to have been exercised:

"It may be noted that in these last instructions *the Postholder was prohibited from leaving the Post* for the purpose of trading, the object being to *ensure his attendance at the Post*, and to *attract the Indians to its neighbourhood.*[3]

Yet this is the Postholder alleged to have represented Dutch authority at Barima 150 miles away from the post which he was forbidden to leave. The following are further statements along the same line, also taken from the British Case itself:

"In 1784 the West India Company observing that the Indians "were withdrawing more and more *from the neighbourhood* of the "white settlers (a fact probably due to the disturbances in the "Colony owing to its capture and occupation first by Great "Britain and then by France) directed, etc."[4]

And,

"The object of these presents was to insure the assistance of "the tribes in case of negro revolt, and to attract them *to the "neighbourhood of the Dutch Posts.*"[5]

Also,

"The Post of Moruka was the station most suitable for inter- "cepting deserters by the coast routes. Accordingly, houses "were built there for the Arawaks, and *around the Post* was "settled a permanent body of Caribs, Warows, and Arawaks to "the number of 600 or 700. * * * *These* Indians were sub-

[1] British Case, p. 88, lines 46–51; p. 89, line 1.
[2] British Case, p. 89, lines 6–10.
[3] British Case, p. 89, lines 12–17.
[4] British Case, p. 91, lines 30–36.
[5] British Case, p. 92, lines 7–10.

"jected to discipline and organization of a simple kind, and "*their presence* added to the importance of *the Post.*"[1]

Indians controlled near posts.

And again,

"In 1755 the Panacays settled *in the neighbourhood of the* "*Cuyuni Post* to prevent the encroachments of the Spaniards."[2]

These extracts from the British Case show that the Indians which are claimed to have been controlled by the Dutch were Indians living *at or near the Posts and settlements*, not the Indians who might be roaming some hundreds of miles away near the limits of the British claim.

Indians *invited* not *summoned.*

These extracts serve still another purpose. With the exception of the case of a Carib Chief from Barima who is alleged to have been "*summoned*" before the Dutch Council in 1755, and of two cases in the neighborhood of the Moruca posts, these extracts contain a complete statement of all the specific instances of supposed Dutch jurisdiction over Indians which are cited by Great Britain to prove the exercise of that jurisdiction.

The evidence cited in proof of the *summoning* of the Carib Chief from Barima is as follows:

"Moreover, the Council has sent to Barima a certain An. "Christiaansen to *invite* hither the Chief of the Caribs who "murdered the Acuways in Mazaruni, to be present at the "Session for January next, that we may learn from the same "who have been the causers and inciters thereof, so that I think "this tumult will now be greatly allayed."[3]

It appears, therefore, that if the Pomeroon-Moruca region be excepted, the entire case of Great Britain, so far as it rests upon Dutch jurisdiction over Indians is founded upon an *invitation* sent in 1755 to a Carib Chief of Barima to be present at a meeting of the Council for the purpose of giving it information,

[1] British Case, p. 93, lines 16–27.
[2] British Case, p. 95, lines 28–30.
[3] British Case, App. II, p. 123.

Indians *invited* not *summoned.*

and upon the control of such Indians as may for a short time have been about the Dutch posts in the Cuyuni river; posts, it will be remembered, which came to an end because of Spanish control in that quarter. This is the Dutch jurisdiction which for two centuries is supposed to have been exercised over Indians from the Moruca to the Orinoco on the coast, and from Kykoveral to the junction of the Yuruari and Cuyuni in the interior.

No systematic exercise of jurisdiction.

In this connection the British Case contains a singular admission. It says:

> "In British times the Postholders travelled largely through the "districts round their Posts and exercised magisterial functions. "*During the Dutch period it does not appear that they habitually "did so.*"[1]

If the word "habitually" were left out, this statement, which even as it stands, constitutes a complete surrender of any claim to *systematic* exercise of Dutch jurisdiction, would be actually true.

That the Dutch exercised no jurisdiction over the Indians beyond these posts seems clear. That they had some sort of relation with those Indians is, however, equally plain. The question remains, what was the nature of that relation?

A few extracts from the British Case will make this plain.

No Dutch *authority* over Indians.

Some of those already given show that in order to secure the attendance of Indian Chiefs in Essequibo, *invitations*, not *summonses*, were sent to them. The British Case makes a number of references to what it calls the *summoning* of these Chiefs; but, as in the case of the Barima Chief who was alleged to have been *summoned*, and who turned out to have been merely

[1] British Case, p. 89, lines 37–41.

invited, each of these alleged cases of "summonses" will be found to be unsupported by the evidence.

No Dutch *authority* over Indians.

The fact that Indians were thus *invited* and not *summoned* is a first indication as to the real nature of Dutch-Indian relations. It shows that the Dutch did not assume over the Indians that *command* which is an essential element of sovereignty. This attitude of the Dutch toward the Indians is emphasized by the following extracts from the British Case:

"In 1680 and 1683, the Company's negro traders are found "*endeavoring* to put an end to a native war."[1]

and,

"Upon this occasion also the Commander *used his influence* to "prevent a continuance of disorder."[2]

also,

"The Commandeur of Essequibo at once gave directions to "the Postholder of Arinda to *induce* the Caribs in the neigh- "bourhood of that Post to take up arms."[3]

and again,

"The Governor of Berbice *having expressed a wish* for their "assistance, the Caribs of Barima, etc."[4]

And many more to the same effect, both in the British Case itself and in its Appendices.

Dutch-Indian *friendship.*

This manner of dealing with the Indians implies a state of *friendship* rather than a condition of *allegiance* or *servitude.* This was in fact what was sought by the Dutch and what actually at times existed. It was a friendship without any *obligation* to assist on the part of the Indians. It was an *alliance* for the mutual benefit of *both* without any thought on the part of the Indians that they were surrendering their freedom or that they were recognizing Dutch sovereignty. The evidence

[1] British Case, p. 84, line 50; p. 85, lines 1–2.
[2] British Case, p. 85, lines 8–10.
[3] British Case, p. 94, lines 15–18.
[4] British Case, p. 94, lines 30–32.

Dutch-Indian *friendship.*

which might be cited in support of these statements from the very documents submitted by Great Britain is overwhelming. For the present, the statements of the British Case itself are quite sufficient. These are some of them :

"The permission to trade with the Indians at and near the "Post gave the Postholders exceptional facilities for cultivating "*friendly relations* with those tribes."[1]

"The instructions to the Postholder at Arinda issued in 1764, "provided that he should try to maintain and cultivate *friendly* "and *peaceable relations* with the Indian nations."[2]

"In 1790 the Postholders are described as 'employés on the "'frontier *to foster the good understanding* with the Indians'."[3]

"The West India Company * * * directed * * * a "notification to be given to the effect that the Dutch * * * "*desired to live on more friendly terms* with them."[4]

"In 1775 the Director-General wrote that the only use of the "Post of Arinda was to *conciliate* the Indians."[5]

It was to foster this sort of *friendship* that the Dutch made presents to the Indians; and it was in that spirit that the Indians themselves accepted the presents. The following are statements of the British Case on this point:

"The earliest reference to this subject notices that such gifts "were required 'to keep on *friendly terms* with the Chiefs of "the Indians'."[6]

"The object of these presents was to insure the assistance of "the tribes in case of negro revolt, and to attract them to the "neighbourhood of the Dutch Post."[7]

But even this friendship was by no means either constant or exclusive. The Caribs were at times the

[1]British Case, p. 88, lines 20–23.
[2]British Case, p. 88, lines 40–43.
[3]British Case, p. 89, lines 34–36.
[4]British Case, p. 91, lines 30–40.
[5]British Case, p. 89, lines 30–33.
[6]British Case, p. 90, lines 14–17.
[7]British Case, p. 92, lines 7–10.

friends, but at times also the *enemies* of the Dutch. They attacked Dutch settlements and posts; they allied themselves with French and English against the Dutch; the very Barima Caribs, of whose alleged control the British Case makes so much, were the ones who guided the French from the Barima to the Pomeroon in 1689, and who helped in the destruction of the new Dutch Colony there.

Dutch-Indian enmity.

This examination of Dutch-Indian relations might be supplemented by an account of Spanish-Indian relations, showing that Spain was in truth the recognized sovereign of the Indians; that her rule over them was a rule depending not on *friendship* nor *acquiescence*, but upon force exerted by a *ruler* over *subjects*. Such an account seems, however, to be quite unnecessary, for, with or without it, the fact remains that the Dutch never claimed to be sovereigns over the Indians, that they never treated the Indians as subjects, that the two were at times bitter enemies, and that at best they were quondom friends and allies, nothing more.

Spanish-Indian relations.

BRITISH ADMINISTRATION.

The section on "Dutch Administration" is followed, in the British Case, by one on "British Administration."

Great Britain merely a successor of the Dutch.

It should be carefully noted that no claim has ever been made, and that no claim is now made, by Great Britain to any territory beyond that alleged to have belonged to the Dutch in 1814, and to have *at that time* constituted "*the establishments of Demerara, Essequibo and Berbice.*" If Great Britain is to-day entitled to all the territory east of the Schomburgk Line, it must be because that territory belonged to the Dutch when Great Britain took possession of Essequibo, not because Great Britain subsequently extended the limits of the Colony

Great Britain merely a successor of the Dutch.

either by occupation or control. This is the position which Great Britain has always admitted that she occupied; this is the position which Venezuela has always insisted that Great Britain should be held to; and this is the principle which the present treaty of arbitration has adopted in Article III as the keystone in the whole controversy. The question of *British* Administration is therefore material only so far as it shows that the *Dutch* Administration was continued. Any *new* control or *new* exercise of jurisdiction, which was unknown to the Dutch, must be disregarded, no matter how perfect it might be possible to show it to have become in British hands.

The British Case admits this in the opening statement of the section on British Administration; it says,

"When entering upon the government of the Colonies captured "from the Dutch, the British authorities in their dealings with "the Indian races of the country carried on the system of their "predecessors, preserving, as far as possible, an absolute contin- "uity both of policy and administration.[1]

And later, speaking of Schomburgk's surveys, it adds,

"It is important to notice that Schomburgk did not discover "or invent any new boundaries. He took particular care to "fortify himself with the history of the subject. He had further, "from actual exploration and information obtained from the "Indians, as well as from the evidence of local remains as at "Barima, and local traditions as on the Cuyuni, ascertained the "limits of Dutch possession, and the zone from which all trace "of Spanish influence was absent. On such data he based his re- "ports."[2]

It is difficult to understand how, in view of these and similar statements, which after all merely reiterate what Great Britain has said over and over again, any importance whatever can be attached to any British *extension*

[1] British Case, p. 99, lines 1–8.
[2] British Case, p. 121, lines 22–32.

British *extension* of jurisdiction.

of jurisdiction, or to certain alleged acts of British control which constitute, without question, a wholly new departure, with nothing in Dutch precedent to sanction them: yet the British Case distinctly says:

"The exercise of jurisdiction over disputes and offences by "British officers and courts of law *was greatly extended* by the "British, and was readily submitted to by the Indians, tacitly in "most cases, but sometimes in consequence of an express agree- "ment with a tribal Chief."[1]

Not only so, the British Case goes further; it refers to and relies upon jurisdictional acts which are either admittedly or demonstrably new. For instance, it says:

"After the British finally took possession of the Dutch Colo- "nies, Magistrates were appointed to deal summarily with small "offences, and the number of instances of the exercise of juris- "diction, of which a record has been preserved, is much greater, "as will appear in the subsequent part of this chapter dealing "with the British period. *In the Dutch period it was only in "the case of the more important crimes that the Dutch Courts "assumed the task of trying the offender.*"[2]

And again,

"It will be found that in British times the Postholders "travelled largely through the districts round their Posts and "exercised magisterial functions. *During the Dutch period it "does not appear that they habitually did so.*"[3]

Among new acts of jurisdiction which have been practiced by Great Britain, and which were wholly unknown to the Dutch, is the appointment of Indian Captains by the Colonial Government. The British Case at various times speaks of this new practice as though it were something dating very far back, into Dutch times; but in reality it is wholly British, as the following extract from a letter of Superintendent McClintock, dated March 27, 1869, will show:

[1]British Case, p. 101, lines 34–39.
[2]British Case, p. 86, lines 34–44.
[3]British Case, p. 89, lines 36–41.

British *extension* of jurisdiction.

"Previous to Missions being established among the aborigines "of this district, their Captains, or Chiefs, were always selected "by themselves, and the men possessing the art of conjurer—or, "according to the people's belief, the power of destroying the "lives of others by their incantations and prayers—were in- "variably chosen to fill the office. This system proving such a bar- "rier to everything calculated to ameliorate their then degraded "condition, the conjurers having so much influence over their "respective tribes as to induce them to set their faces, so to "speak, against all kind of instruction, and seeing, as I did, the "necessity for some interference, I brought matters under the "notice of Sir Henry Light, the then Governor of the Colony, "expecting the difficulties to be overcome before any permanent "good for the Indians could be achieved. With the view, there- "fore, of removing, if not to suppress entirely, the then prevailing "influence of the Chiefs, I suggested to his Excellency Sir "Henry Light that they should at once be dispossessed of all au- "thority to nominate captains, and the power of making such "appointments should be vested in the Executive; this arrange- "ment, which has been acted upon to the present time, has "proved most beneficial." [1]

In Dutch times the Indians selected their own Chiefs, and such authority as was vested in them emanated from the Indians themselves. The gewgaws, which these Chiefs at times received from the Dutch authorities, tickled their vanity, and their *recognition* as Chiefs by the Dutch probably gave them a feeling of still greater satisfaction; but never did they, nor the Dutch for that matter, suppose that such act conferred any authority on the Chief. The Chief was the principal man of his family or tribe, and it was precisely because he was Chief that the Dutch courted his friendship. The British, however, actually *made* Chiefs. There is a vast difference between *recognizing* and *making*. One is a creative act, the other a mere acquiescence in what already is. An enemy or an independent sovereign

[1] British Case, App. VI., p. 209.

may be recognized—only a subject can be *made* a magistrate.

British *extension* of jurisdiction.

Something else wholly new and unknown to the Dutch Administration were the visits to the Waini and Barima of the Superintendent of Creeks and Rivers. The first of these was in 1839, twenty years after the Treaty of London. The occasion for this arose out of a condition of things which is thus explained by the British Case:

> "In 1837 the Court of Policy decided that it would no longer "defray the cost of the distribution of presents by the Post-"holders, and in 1838 Governor Light spoke of the Indian sub-"sidy as entirely discontinued. In consequence of this by the "following year no Indians were to be found residing at the "Posts who could be considered as attached to them." [1]

That is to say, the Indians who had up to that time lived at the Moruca Post left that post in 1838 because they got no more presents from the British, and wandered off to the Waini and Barima. In order to hold *these* Indians, and to secure laborers for the British plantations along the Arabian coast, the Superintendent of Creeks and Rivers in 1839 went *for the first time* into the region beyond the Moruca, seeking to foster among the late residents of the Pomeroon and the Moruca who had gone there, a feeling that it was to their interest to have the British continue to look out for them.

These visits are in themselves wholly unimportant, and were undertaken and effected without any knowledge of them on the part of Venezuela; but above all they were something wholly *new*, something in sharp contrast to the conduct of the former Dutch postholders, who had received as a part of their regular instructions an order not to leave their posts to go to the Indians, but to endeavor to attract the Indians to the posts.

[1] British Case, p. 105, lines 39–47.

Schomburgk survey first notice of British *extension.*

It is well to note in this connection that the first intimation which Venezuela received of the presence of any British in the Barima-Waini region was at the time of the Schomburgk survey in 1841; that she at once protested against it; that in consequence of that protest the boundary posts erected by Schomburgk were removed; and that very shortly thereafter, in order to prevent any new British aggression into that region, the agreement of 1850 was concluded, by which Great Britain bound herself to keep out of it. That put an end to any claim of "British control" there.

Before leaving this subject, it is also important to note that these visits of the Superintendent of Creeks and Rivers, even while they lasted, were confined to the coast region. There is no record of any such visits into the Cuyuni or Mazaruni. Not even the *British* Administration ever extended there.

A further consideration of British Administration would seem to be unnecessary. If only *Dutch* territory is to be awarded to Great Britain, and if the political control which the Dutch exercised never extended to the Waini nor to the Barima nor beyond the lowest falls of the Cuyuni, Mazaruni and Essequibo rivers, it can make no difference whatever how far British control may subsequently have gone.

That no erroneous impression may, however, be left upon the minds of the Arbitrators respecting the real nature of even this *new and extended* "British Administration," it may be wise, before concluding, to say that the facts alleged by Great Britain respecting it fail wholly to show any exercise of real control either in the Barima-Waini region or in the Cuyuni-Mazaruni basin.

As during Dutch times, so in British times, the only

Only Indians controlled were those near posts.

Indians who can in any sense be considered as under British influence were those about the posts or in the immediate neighborhood of the Dutch settlement. The British Case recognizes this when it makes the following statements:

"The Indians had, on the defeat of their protectors and rulers, "the Dutch, retired to the remote districts of the interior. It "was the aim of the British Government to attract them, as far "as possible, to the more populated districts of the coast, an "object which as time went on was gradually attained."[1]

Again,

"Each postholder was bound to keep an accurate journal of "occurrences at his Post, which he was to transmit quarterly to "the Protector of Indians in his district—a new officer whose "position and duties will presently be considered. He was to "attach the Indians to the Post and to endeavour to preserve "peace and order among them."[2]

Again,

"When the British took possession of the Colonies of Essequibo "and Demerara, the subsidy which the Dutch had from early "times been accustomed to pay to the natives was, in the first "instance, neglected. The Indians received no presents, and "obtained no signs of that esteem and friendship which had "been shown them by the Dutch, and consequently they retired "further inland. This fact was quickly observed, and its pos-"sible consequences in the event of trouble with the slave popu-"lation were pointed out. Presents for 1,000 Indians were ac-"cordingly ordered from Europe, and the date was fixed for a "general distribution. The Court of Policy also resolved that "the Postholders should, for the purpose of attracting Indians "to the Post, distribute small presents from time to time so that, "in case of need, the services of the Indians might be more "readily obtainable."[3]

Again,

"The principal field of labour of the Indians from the year 1805 "onwards was the district extending from the Essequibo to the

[1] British Case, p. 99, lines 8-14.
[2] British Case, p. 99, lines 33-41.
[3] British Case, p. 104, lines 8-27.

Only Indians controlled were those near posts.

"Moruka. The position of the Post in the Moruka was, in the "beginning of that year, ordered to be removed to a point more "advantageous for keeping up communication with the Indians.

"In 1811 the Court of Policy settled a scale of annual payment "to be made for the services of Indians employed at all the Posts. "Other regulations as to Indian labour were left to the Protectors "of Indians."[1]

Indians their own avengers.

Again it should be noted that, even after the coming of the British, the Indians continued to be their own avengers, keeping in their own hands the execution of their own laws instead of submitting to British authority. The British Case itself states that,

"The early days of British administration produced no imme- "diate change in the custom of the Indians to exact the penalty "of life for life in every case in which a white inhabitant did not "step in to buy off the avenger."[2]

And, apparently, as though it were an act showing the exercise of jurisdiction and proving the existence of sovereignty, the British Case adds that

"It was not unusual for the Protector or the Postholder to buy "off the animosity of the friends of an Indian who had met with "his death under circumstances which afforded no grounds for "the institution of a prosecution."[3]

It is difficult to understand how buying off a criminal can prove political control over him.

British-Indian *friendship.*

That, like the Dutch, the British regarded the Indians as *friends* and *allies*, not as *subjects*, and that the presents given them were merely for the purpose of retaining this *friendship* and of protecting themselves against their possible *hostility* (savoring indeed of the nature of tribute) is shown by the following statements of the British Case:

"In the autumn of 1810 a Carib Chief from the Upper Esse- "quibo or the Rupununi, with his followers, visited the capital.

[1] British Case, p. 107, lines 26-36.
[2] British Case, p. 101, lines 22-26.
[3] British Case, p. 101, lines 29-33.

"He had previously sent an envoy, who had received certain "presents from the Governor. He now came in person, and the "Governor represented to the Court of Policy the desirability of "preventing him from making war in the remoter districts of the "Colony for the purpose of obtaining slaves. An agreement was "accordingly made by which the Chief bound himself to refrain "from doing this, and to live in peace and friendship with the "white settlers. The Colonial Government, on their part, under- "took to give the Chief certain presents, some at once, and others "annually when called for."[1]

British-Indian *friendship.*

Also,

"When the British Government entirely abolished negro "slavery the dangers of such risings were regarded as past, and "the subsidies to the Indians were accordingly discontinued."[2]

It is thus seen that whether regarded as something new and unprecedented, or as something old and a continuation of Dutch practices, "British Administration" beyond the Moruca on the coast, and beyond the falls of the Cuyuni, Mazaruni and Essequibo in the interior, is something which did not exist until within the last few years, when in violation of the agreement of 1850 Great Britain had invaded the territory in dispute.

The section on "Area Controlled" which follows the one on "British Administration" in the British Case seems hardly to require consideration at this time. Its statements are largely a repetition of those already considered. Many of those statements Venezuela believes to be erroneous in fact and misleading in form; but it is believed that in the chapter already examined her own views on the subject of political control have been sufficiently set forth to make perfectly clear her attitude toward it.

Area Controlled.

[1] British Case, p. 104, lines 37–49; p. 105, lines 1–3.
[2] British Case, p. 106, lines 13–17.

VI.—CONCLUSION.

Purpose of the preceding chapters

In the preceding chapters an effort has been made to present the facts alleged in the British Case in such a manner as to leave the main issues more clearly defined. Many statements of that Case have been passed unnoticed because, however important in themselves, their bearing on the points actually under discussion was not apparent. Some of those statements have been considered and commented upon by Señor Dr. Rafael Seijas, former Minister of Foreign Affairs of Venezuela. The results of his examination, contained in two able papers, are published in the Appendix to this Counter-Case.[1]

The remaining chapters of the British Case deal with the diplomatic negotiations between Venezuela and Great Britain, with the *Schomburgk Line*, with the subject of maps, and with some of the principles of law involved in the controversy. Some of these subjects have already been treated by Venezuela in her Case. Her views on all of them have been defined; and hence their further discussion may properly be deferred until the time of the printed and oral arguments.

Maps.

In connection with the subject of maps, a second atlas has been prepared to accompany this Counter-Case, and to rebut the allegation of the British Case that,

> "the view of map-makers, other than Spanish and Venezuelan, "is absolutely inconsistant with the Venezuelan claim."[2]

This new atlas contains maps by well known French, German, Dutch, Italian and even British map-makers,

[1] Venezuelan Counter-Case, Vol. 3, documents numbered 137 and 138.
[2] British Case, p. 140, lines 28–31.

Maps.

to say nothing of Spanish and Venezuelan, showing lines favorable to Venezuela's claim. In this connection, too, and also as showing the cartographic origin of the *Schomburgk Line*, a report on the *Cartographical Testimony of Geographers*, prepared for the United States Commission in 1896 by its Secretary, is reprinted in the Appendix to this Counter-Case.[1]

A full discussion of the points covered by that report, as also of the relation of the *Schomburgk Line* to this controversy, will be deferred to the time of argument.

Legal Principles

Another subject which would seem to belong to the arguments, rather than to the Counter-Case, is the question of legal principles involved. The principles upon which Venezuela relies are believed to be sufficiently indicated by the general statements in her Case and Counter-Case. There is one point however which, since the British Case refers to it at some length, it may be well briefly to touch upon at this time. No direct reference to it has heretofore been made by Venezuela, except in the diplomatic correspondence published in the Appendix to her Case; that point relates to the Papal Bull of 1493.

Papal Bull of 1493

Papal authority, as a basis of territorial title, might not avail if attempted to be exercised now at the close of this nineteenth century: it was far otherwise at the close of the fifteenth. During the middle ages, and until after the discovery of America, the Pope was the recognized arbiter of the civilized world: his word was in those days supreme. Whatever may be thought now of the *logic* of it, there can be no two views as to the *fact* itself, nor as to the benefits which accrued therefrom to civilization. What there was of international law in the dark ages was in the keeping

[1] Venezuelan Counter-Case, Vol. 2, pp. 267-311.

of the Holy See. Sovereign princes did not hesitate to surrender their dominions into the Pope's hands, and to receive them back as his acknowledged vassals, bound to him by feudal ties. As Mr. Harrisse points out in his recent work on *The Diplomatic History of America*, there is good reason for believing that Great Britain's title to Ireland has its foundation in a Papal grant;[1] and it is a fact quite beyond dispute that Henry II "placed his own Kingdom of England and all its dependencies under the pontifical sovereignty."[2] Henry VII, in 1485, and again in 1493, sent embassies of obedience to Rome to the very Pope[3] (Alexander VI) whose Bull regarding America is now so lightly esteemed by Great Britain. Papal Bull of 1493.

Four centuries have indeed wrought great changes. The thoughts and ideals of those days are past. New forces rule the world, and new laws direct its destiny; but to judge those days by the standards of these would be to judge falsely. Even after her separation from the Church of Rome, England recognized, by acts, if not by words, the power of the Holy See and the validity of Papal acts. Notwithstanding English settlement, or English occupation along the coast of North America, England was not unwilling, in 1670, to receive from Spain a release of Spanish title to those regions. That it was thought worth while to obtain such a release is in itself significant.

The statements of the British Case in connection with this subject of Papal Bulls are both incomplete and inaccurate, but their discussion may profitably be postponed to the time of argument.

In closing this Counter-Case, the Government of Vene- Conclusion.

[1] The Diplomatic History of America by Henry Harrisse, p. 42.
[2] The Diplomatic History of America by Henry Harrisse, p. 43.
[3] The Diplomatic History of America by Henry Harrisse, p. 44.

Conclusion.

zuela once more affirms its right to the boundary line claimed in its Case. It believes that the statements of the British Case, and the evidence submitted therewith, tend to confirm and strengthen that claim. It flatters itself that the declared purpose of this Counter-Case has been accomplished. The British lines of defense have been seen: their strength and their weakness have been measured: the strategic points have been revealed. With the issues thus defined it believes that the way has been cleared for the arguments which are to apply the final test.

J. M. DE ROJAS,
Agent of Venezuela.

WASHINGTON, D. C., August 15, 1898.

ERRATA.

In the Case of Venezuela:

Vol. 1, p. 210, line 3, *for* Fortique *read* de Rojas.

" 1, p. 210, " 23, " Amacura " Moruca.

" 1, p. 210, " 26, " Amacura " Moruca.

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